

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, 10 Rhagfyr 2018 Clerc y Pwyllgor
Amser: 14.30 0300 200 6362
SeneddMCD@cynulliad.cymru

- 1 Cyflwyniad, ymddiheuriadau, dirprwyon a datganiadau o fuddiant**
14.30
- 2 Bil Deddfwriaeth (Cymru): Tystiolaeth gan y Cwnsler Cyffredinol:
Sesiwn dystiolaeth 1**
14.30 (Tudalennau 1 – 25)
Jeremy Miles AC, Cwnsler Cyffredinol
Dylan Hughes, Prif Gwnsler Deddfwriaethol, Llywodraeth Cymru
Dr James George, Cwnsler Deddfwriaethol, Llywodraeth Cymru
Claire Fife, Cynghorwr Polisi i'r Cwnsler Cyffredinol, Llywodraeth Cymru

[Bil Deddfwriaeth \(Cymru\)](#)
[Memorandwm Esboniadol](#)
[Tacsonomeg Drafft ar gyfer Codau Cyfraith Cymru](#)

CLA(5)–32–18 – Papur briffio
CLA(5)–32–18 – Crynodeb gan y Gwasanaeth Ymchwil
CLA(5)–32–18 – Papur 56 – Gohebiaeth â Ysgrifennydd Gwladol Cymru
- 3 Offerynnau nad ydynt yn cynnwys materion i gyflwyno adroddiad
arnynt o dan Reol Sefydlog 21.2 na 21.3**
15.30 (Tudalennau 26 – 27)
CLA(5)–32–18 – Papur 1 – Offerynnau statudol sydd ag adroddiadau clir



Offerynnau'r Weithdrefn Penderfyniad Cadarnhaol

- 3.1 SL(5)287 – Rheoliadau Treth Gwarediadau Tirlenwi (Cyfraddau Treth) (Cymru) 2018

Offerynnau'r Penderfyniad Negyddol

- 3.2 SL(5)290 – Rheoliadau Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (Addasiad Ynysoedd Scilly) 2018

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

Offerynnau'r Penderfyniad Negyddol

- 4.1 SL(5)285 – Rheoliadau Dosbarthu Carcasau a Hysbysu eu Prisiau (Cymru) 2018

(Tudalennau 28 – 63)

CLA(5)–32–18 – Papur 2 – Adroddiad

CLA(5)–32–18 – Papur 3 – Rheoliadau

CLA(5)–32–18 – Papur 4 – Memorandwm Esboniadol

Offerynnau Cyfansawdd Penderfyniad Negyddol

- 4.2 SL(5)288 – Rheoliadau Diogelu'r Amgylchedd (Diwygiadau Amrywiol) (Cymru a Lloegr) 2018

(Tudalennau 64 – 88)

CLA(5)–32–18 – Papur 5 – Adroddiad

CLA(5)–32–18 – Papur 6 – Rheoliadau

CLA(5)–32–18 – Papur 7 – Memorandwm Esboniadol

Offerynnau'r Weithdrefn Penderfyniad Cadarnhaol

- 4.3 SL(5)289 – Rheoliadau Cynlluniau Gostyngiadau'r Dreth Gyngor (Gofynion Rhagnodedig a'r Cynllun Diofyn) (Cymru) (Diwygio) 2019

(Tudalennau 89 – 114)

CLA(5)–32–18 – Papur 8 – Adroddiad

CLA(5)-32-18 – Papur 9 – Rheoliadau

CLA(5)-32-18 – Papur 10 – 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 ymadawriad y DU â'r UE

5.1 SL(5)284 – Rheoliadau Sŵn Amgylcheddol (Cymru) (Diwygio) 2018

(Tudalen 115)

CLA(5)-32-18 – Papur 11 – Adroddiad

5.2 SL(5)286 – Rheoliadau yr Amgylchedd, Cynllunio a Materion Gwledig (Diwygiadau Amrywiol) (Cymru) 2018

(Tudalen 116)

CLA(5)-32-18 – Papur 12 – Adroddiad

6 Offerynnau Statudol sydd angen Cydsyniad: Ymadael â'r UE

6.1 SICM(5)8 – Rheoliadau Amgylchedd Morol (Diwygio) (Ymadael â'r UE) 2018

(Tudalennau 117 – 149)

CLA(5)-32-18 – Papur 13 – Llythyr gan Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig

CLA(5)-32-18 – Papur 14 – Datganiad Ysgrifenedig gan Lywodraeth Cymru: Hysbysu mewn perthynas ag Offerynnau Statudol a wneir gan Weinidogion y DU mewn meysydd datganoledig o dan Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 nas gosodir gerbron y Cynulliad

CLA(5)-32-18 – Papur 15 – Memorandwm Cydsyniad Offeryn Statudol

CLA(5)-32-18 – Papur 16 – Rheoliadau

CLA(5)-32-18 – Papur 17 – Memorandwm Esboniadol

CLA(5)-32-18 – Papur 18 – Sylwebaeth

6.2 SICM(5)9 – Rheoliadau Llongau Masnach a Thrafnidiaeth Arall (Diogelu'r Amgylchedd) (Diwygio) (Ymadael â'r UE) 2018

(Tudalennau 150 – 179)

CLA(5)–32–18 – Papur 19 – Llythyr gan Ysgrifennydd y Cabinet dros yr Economi a Thrafnidiaeth

CLA(5)–32–18 – Papur 20 – Datganiad Ysgrifenedig gan Lywodraeth Cymru: Hysbysu mewn perthynas ag Offerynnau Statudol a wneir gan Weinidogion y DU mewn meysydd datganoledig o dan Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 nas gosodir gerbron y Cynulliad

CLA(5)–32–18 – Papur 21 – Memorandwm Cydsyniad Offeryn Statudol

CLA(5)–32–18 – Papur 22 – Rheoliadau

CLA(5)–32–18 – Papur 23 – Memorandwm Esboniadol

CLA(5)–32–18 – Papur 24 – Sylwebaeth

7 Datganiadau ysgrifenedig o dan Reol Sefydlog 30C

7.1 WS–30C(5)31 – Rheoliadau Polisi Amaethyddol Cyffredin a Bwrdd Datblygu Amaethyddiaeth a Garddwriaeth (Diwygio Etc.) (Ymadael â'r UE) 2018

(Tudalennau 180 – 183)

CLA(5)–32–18 – Papur 25 – Datganiad

CLA(5)–32–18 – Papur 26 – Sylwebaeth

7.2 WS–30C(5)32 – Rheoliadau Sefydliadau Ewropeaidd a Gwarchodaeth Gonsylaidd (Diwygio etc.) (Ymadael â'r UE) 2018

(Tudalennau 184 – 188)

CLA(5)–32–18 – Papur 27 – Datganiad

CLA(5)–32–18 – Papur 28 – Sylwebaeth

7.3 WS–30C(5)33 – Rheoliadau Enseffalopathïau Sbyngffurf Trosglwyddadwy a Sgîl-gynhyrchion Anifeiliaid (Diwygio) (Ymadael â'r UE) 2018

(Tudalennau 189 – 192)

CLA(5)–32–18 – Papur 29 – Datganiad

CLA(5)-32-18 – Papur 30 – Sylwebaeth

**7.4 WS-30C(5)34 – Rheoliadau Ansawdd Aer (Diwygio Rheoliadau Domestig)
(Ymadael â'r UE) 2018**

(Tudalennau 193 – 196)

CLA(5)-32-18 – Papur 31 – Datganiad

CLA(5)-32-18 – Papur 32 – Sylwebaeth

**7.5 WS-30C(5)35 – Rheoliadau Ansawdd Aer (Diwygio Amrywiol a Dirymu
Deddfwriaeth Uniongyrchol yr UE a Ddargedwir) (Ymadael â'r UE) 2018**

(Tudalennau 197 – 202)

CLA(5)-32-18 – Papur 33 – Datganiad

CLA(5)-32-18 – Papur 34 – Sylwebaeth

**7.6 WS-30C(5)36 – Rheoliadau Effeithlonrwydd Ynni'r Ymrwymiad Lleihau Carbon
(Diwygiad) (Ymadael i'r UE) 2018**

(Tudalennau 203 – 206)

CLA(5)-32-18 – Papur 35 – Datganiad

CLA(5)-32-18 – Papur 36 – Sylwebaeth

**7.7 WS-30C(5)37 – Rheoliadau Pwerau Penderfyniad Cyfiawnhau (Ymadael â'r UE)
2018**

(Tudalennau 207 – 210)

CLA(5)-32-18 – Papur 37 – Datganiad

CLA(5)-32-18 – Papur 38 – Sylwebaeth

**7.8 WS-30C(5)38 – Rheoliadau Meddyginiaethau Milfeddygol ac Anifeiliaid a
Chynhyrchion Anifeiliaid (Archwilio Gweddillion a Therfynau Uchaf
Gweddillion) (Diwygio etc.) (Ymadael â'r UE) 2018**

(Tudalennau 211 – 214)

CLA(5)-32-18 – Papur 39 – Datganiad

CLA(5)-32-18 – Papur 40 – Sylwebaeth

7.9 WS-30C(5)40 – Rheoliadau Masnachu Anifeiliaid a Chynhyrchion Cysylltiedig (Diwygio etc.) (Ymadael â'r UE) 2018

(Tudalennau 215 – 218)

CLA(5)-32-18 – Papur 41 – Datganiad

CLA(5)-32-18 – Papur 42 – Sylwebaeth

7.10 WS-30C(5)41 – Rheoliadau Protocol 1 i Gytundeb yr AEE (Diwygio) (Ymadael â'r UE) 2018

(Tudalennau 219 – 222)

CLA(5)-32-18 – Papur 43 – Datganiad

CLA(5)-32-18 – Papur 44 – Sylwebaeth

7.11 WS-30C(5)42 – Rheoliadau'r Polisi Pysgodfeydd Cyffredin (Diwygio etc.) (Ymadael â'r UE) 2018

(Tudalennau 223 – 230)

CLA(5)-32-18 – Papur 45 – Datganiad

CLA(5)-32-18 – Papur 46 – Sylwebaeth

8 Papurau i'w nodi

8.1 Datganiad Ysgrifenedig gan Lywodraeth Cymru: Cyflwyno a Chyhoeddi Adroddiad Terfynol Comisiwn y Gyfraith ar Gyfraith Cynllunio yng Nghymru

(Tudalennau 231 – 232)

CLA(5)-32-18 – Papur 47 – Datganiad Ysgrifenedig gan Lywodraeth Cymru

8.2 Llythyr gan y Llywydd at y Prif Weinidog: rôl y Cynulliad a'i bwyllgorau wrth graffu ar ddeddfwriaeth sy'n ymwneud â Brexit

(Tudalennau 233 – 234)

CLA(5)-32-18 – Papur 48 – Llythyr gan y Llywydd

8.3 Gohebiaeth â'r Prif Weinidog: Offerynnau Statudol Cyfansawdd ac Offerynnau Statudol ar y Cyd

(Tudalennau 235 – 244)

CLA(5)-32-18 – Papur 49 Llythyr at y Prif Weinidog, 13 Tachwedd 2018

CLA(5)-32-18 – Papur 50 Llythyr gan y Prif Weinidog, 28 Tachwedd 2018

8.4 Llythyr gan Ysgrifennydd y Cabinet dros yr Economi a Thrafnidiaeth: Ymateb i Adroddiad y Pwyllgor ar Graffu ar Reoliadau a wnaed o dan y Bil Masnachu

(Tudalennau 245 – 246)

CLA(5)-32-18 – Papur 51 – Llythyr gan Ysgrifennydd y Cabinet dros yr Economi a Thrafnidiaeth

8.5 Llythyr gan Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig: Bil Amaethyddiaeth y DU

(Tudalennau 247 – 250)

CLA(5)-32-18 – Papur 52 – Llythyr gan Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig

8.6 Llywydd gan y Llywydd: Diwygio'r Cynulliad

(Tudalennau 251 – 253)

CLA(5)-32-18 – Papur 53 – Llythyr gan y Llywydd

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

16.00

10 Trafod y dystiolaeth: Bil Deddfwriaeth (Cymru)

11 Memorandwm Cydsyniad Deddfwriaethol: Bil Amaethyddiaeth y DU : Adroddiad Drafft

(Tudalennau 254 – 292)

CLA(5)-32-18 – Papur 54 – Adroddiad drafft

12 Craffu ar reoliadau a wnaed o dan Ddeddf yr UE (Ymadael) 2018: Y wybodaeth ddiweddaraf

(Tudalennau 293 – 296)

CLA(5)-32-18 – Papur 55 – Y wybodaeth ddiweddaraf

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon

Jeremy Miles AC/AM
Y Cwnsler Cyffredinol/Counsel General AC/AM



Llywodraeth Cymru
Welsh Government

Mick Antoniwn AC
Cadeirydd Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Cynulliad Cenedlaethol Cymru

6 Rhagfyr 2018

Annwyl Mick,

BIL DEDDFWRIAETH (CYMRU) – GOHEBIAETH GAN YSGRIFENNYDD GWLADOL CYMRU

Gyda chydysyniad y Prif Weinidog, rydw i'n rhannu copi o lythyr a dderbyniwyd gan Ysgrifennydd Gwladol Cymru ar Bil Deddfwriaeth (Cymru).

Byddwn yn hapus i ateb cwestiynau ar hyn yn ystod fy nhystiolaeth ddydd Llun neu wedi hynny, petai hynny o gymorth i'r Pwyllgor.

Yn gywir

Jeremy Miles AC
Y Cwnsler Cyffredinol
Counsel General

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400
PSCounselGeneral@gov.wales

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

Tudalen y pecyn 24
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.

The Rt Hon Carwyn Jones
First Minister of Wales
Welsh Government
Cardiff Bay
Cardiff
CF99 1NA

5 December 2018

Dear Carwyn,

Legislation (Wales) Bill

The Legislation (Wales) Bill was introduced in the National Assembly on Monday. Our officials have been discussing the Bill in draft in recent months.

I recognise of course that it is for the National Assembly to determine the content and interpretation of legislation within its legislative competence. But the UK Government is concerned that some of the provisions in the Bill, as introduced, raise questions relating to the devolution boundary. The Bill also has implications for the clarity and accessibility of Parliamentary legislation given that Parliamentary Acts and Statutory Instruments made under them are within its scope.

I would like our officials to continue to discuss the content of the Bill and to seek a mutually agreeable solution that respects the Welsh devolution settlement fully. In parallel, the Bill will be subject to competence analysis by my Office's legal team in the usual way.

I am copying this letter to the Solicitor General in the UK Government and the Counsel General in the Welsh Government.



Rt Hon Alun Cairns MP
Secretary of State for Wales
Ysgrifennydd Gwladol Cymru

Eitem 3

Offerynnau Statudol sydd ag Adroddiadau Clir 10 Rhagfyr 2018

SL(5)287 – Rheoliadau Treth Gwarediadau Tirlenwi (Cyfraddau Treth) (Cymru) (Diwygio) 2018

Gweithdrefn: Cadarnhaol

Mae'r Rheoliadau hyn yn rhagnodi'r gyfradd safonol, y gyfradd is a'r gyfradd gwarediadau sydd heb eu hawdurdodi ar gyfer y dreth gwarediadau tirlenwi sydd i'w chodi ar warediadau trethadwy a wneir ar 1 Ebrill 2019 neu ar ôl hynny.

Y gyfradd safonol o 1 Ebrill 2019 fydd £91.35 y dunnell, y gyfradd is fydd £2.90 y dunnell a'r gyfradd gwarediadau sydd heb eu hawdurdodi fydd £137.00 y dunnell.

Rhiant–Ddeddf: Gorchymyn Deddf Treth Gwarediadau Tirlenwi (Cymru) 2017

Fe'u gwnaed ar: 21 Tachwedd 2018

Fe'u gosodwyd ar: 26 Tachwedd 2018

Yn dod i rym ar: 01 Ebrill 2019



SL(5)290 – Rheoliadau Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (Addasiad Ynysoedd Scilly) 2018

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn yn gwneud addasiad i Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014, fel bod Cyngor Ynysoedd Scilly yn cael ei drin fel awdurdod lleol yn Lloegr at ddibenion y Ddeddf honno.

Rhiant–Ddeddf: Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014

Fe'u gwnaed ar: 29 Tachwedd 2018

Fe'u gosodwyd ar: 03 Rhagfyr 2018

Yn dod i rym ar: 04 Chwefror 2019



Eitem 4.1

SL(5)285 - Rheoliadau Dosbarthu Carcasau a Hysbysu eu Prisiau (Cymru) 2018

Cefndir a Diben

Cynhaliodd y Comisiwn Ewropeaidd adolygiad ffurfiol o reolau presennol yr UE sy'n gorchymyn categoreiddio a dosbarthu anifeiliaid a gyflwynir i'w lladd yn erbyn safonau cyffredin Ewropeaidd er mwyn eu gwneud yn fwy tryloyw.

O ganlyniad, gweithredwyd Rheoliad Dirprwyedig y Comisiwn 2017/1182 a Rheoliad Gweithredu'r Comisiwn 2017/1184 yn ategu Rheoliad (UE) Rhif 1308/2013 Senedd Ewrop a'r Cyngor o ran graddfeydd yr Undeb ar gyfer dosbarthu carcasau eidion, moch a defaid ac o ran adrodd am brisiau marchnad rhai categorïau o garcasau ac anifeiliaid byw.

Cynhwyswyd y gyfundrefn ddosbarthu a gorfodi flaenorol yn Rheoliadau Dosbarthu Carcasau Eidion a Moch (Cymru) 2011. Mae'r Rheoliadau hynny yn cael eu diddymu a'u disodli i gyd-fynd â'r newidiadau i gyfundrefn yr UE.

Y weithdrefn

Negyddol.

Materion technegol: craffu

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

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

O dan reoliad 19(b), gall swyddogion awdurdodedig, wrth arfer pwerau mynediad:

- gael mynediad i gyfrifiaduron,
- archwilio cyfrifiaduron, a
- gwirio gweithrediad cyfrifiaduron,

yn yr eiddo a gaiff ei archwilio, lle mae'r cyfrifiaduron yn cael eu defnyddio mewn cysylltiad â chofnodion y mae'n ofynnol eu cadw o dan y Rheoliadau.

Nid yw'n glir i ni beth yw ystyr "gwirio gweithrediad" cyfrifiadur. Gofynnwn i Lywodraeth Cymru esbonio ystyr "gwirio gweithrediad" cyfrifiadur trwy: (a) ddarparu enghreifftiau o'r hyn mae'n ei gynnwys, a (b) esbonio'r hyn y gellir ei gyflawni drwy wirio gweithrediad cyfrifiadur na ellir ei gyflawni drwy gael mynediad i'r cyfrifiadur ac archwilio'r cyfrifiadur.

Rydym o'r farn ei bod yn hanfodol y caiff pwerau mynediad eu drafftio heb ddarpariaethau diangen neu aneglur, yn enwedig pan y gellir arfer y pwerau mynediad mewn perthynas â chartref unigolyn.



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'r Rheoliadau'n dweud y gall Gweinidogion Cymru roi trwyddedau er mwyn dosbarthu carcasau buchol. O dan reoliad 8, gellir rhoi trwydded ar gyfer **dosbarthiad gweledol**. O dan reoliad 9, gellir rhoi trwydded ar gyfer defnyddio **offer graddio awtomataidd i ddsbarthu**. Ymddengys i ni fod rheoliadau 8 a 9 yn ymwneud â dau ddull penodol o ddsbarthu carcasau buchol.

Mae rheoliad 29(1) yn dweud ei bod yn drosedd pe bai "dosbarthiad" yn cael ei gynnal heb drwydded a ganiatawyd o dan reoliad 8.

Mae rheoliad 29(2) yn dweud ei bod yn drosedd "os ymglymerir ... dosbarthu ... drwy ddefnyddio offer graddio awtomataidd" heb drwydded a ganiatawyd o dan reoliad 9.

Felly mae'n ymddangos y bwriedir i reoliad 29(1) ymdrin â dosbarthiad gweledol a bwriad rheoliad 29(2) yw ymdrin â dosbarthiad drwy offer graddio awtomataidd. Fodd bynnag, er bod rheoliad 29(2) wedi'i gyfyngu'n benodol i ddsbarthu gan offer awtomataidd, ymddengys bod rheoliad 29(1), ar yr wyneb, yn berthnasol i **bob** dosbarthiad.

Gofynnwn i Lywodraeth Cymru a ddylai rheoliad 29(1) gyfeirio at "ddsbarthiad gweledol". Mae rheoliad 29 yn creu troseddau, felly mae angen eglurder llwyr ynghylch ehangder y drosedd.

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.

O dan reoliad 10, gall Gweinidogion Cymru benodi person i ystyried apelau yn erbyn penderfyniadau Gweinidogion Cymru. Er enghraifft, os yw Gweinidogion Cymru yn gwrthod trwydded i X o dan reoliad 8 oherwydd bod Gweinidogion Cymru o'r farn nad yw X yn addas ac yn briodol i gael trwydded, gall X apelio i'r person a benodir gan Weinidogion Cymru.

Nodwn nad oes unrhyw gyfeiriad yn y Rheoliadau na'r Memorandwm Esboniadol at annibyniaeth y person sy'n ystyried apelau o'r fath. Mae materion megis cael gwrthod trwydded neu gael trwydded wedi ei dirymu yn faterion difrifol sy'n effeithio ar fywoliaeth pobl. Dylai fod dull teg ac annibynnol ar gyfer penderfyniadau apêl a wneir gan Weinidogion Cymru mewn perthynas â thrwyddedau.

Nodwn mai'r Asiantaeth Taliadau Gwledig sy'n gyfrifol am orfodi'r Rheoliadau, ond rydym yn tybio nad yw ystyried apelau yn erbyn penderfyniadau Gweinidogion Cymru yn golygu gorfodi.

Byddem yn croesawu eglurhad gan Lywodraeth Cymru ynghylch y weithdrefn sy'n berthnasol i apelau o dan reoliad 10 o'r Rheoliadau hyn.



2. Rheol Sefydlog 21.3(iv) – mae'n rhoi deddfwriaeth yr Undeb Ewropeaidd ar waith yn amhriodol

Dylai'r gyfundrefn ddiweddaraf a gynhwysir yn y Rheoliadau hyn fod wedi ei gweithredu gan Aelod-wladwriaethau erbyn 11 Gorffennaf 2018. Nodwn fod y dyddiad terfynol wedi bod ac rydym yn croesawu tryloywder Llywodraeth Cymru wrth nodi hyn yn y Memorandwm Esboniadol.

Fodd bynnag, ymddengys fod y Memorandwm Esboniadol yn dweud, wrth gydymffurfio â'r gyfundrefn gyfredol, bod y diwydiant, mewn gwirionedd, eisoes wedi bod yn cydymffurfio â'r gyfundrefn newydd, ddiweddaraf hon. Er bod hynny'n ymddangos yn wir am bron bob un o ofynion y gyfundrefn newydd, nid yw'n glir a yw'r diwydiant eisoes yn cydymffurfio â'r gofyniad newydd i gynnwys y "categori pwysau marw U4" mewn dosbarthiadau buchol.

Gofynnwn i Lywodraeth Cymru gadarnhau a yw cyflenwyr presennol wedi cydymffurfio â'r gofyniad categori pwysau marw newydd U4 hwn o dan y gyfundrefn gyfredol?

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Mae'r Rheoliadau hyn yn rhan o "ddeddfwriaeth ddomestig sy'n deillio o'r UE" o dan adran 2 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, felly bydd y Rheoliadau hyn yn cael eu cadw fel cyfraith ddomestig a byddant yn parhau i fod mewn grym yng Nghymru ar ôl y diwrnod ymadael.

Ymateb y Llywodraeth

Mae angen ymateb y llywodraeth i'r pwyntiau craffu technegol a rhinweddau sy'n codi yn yr adroddiad hwn.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

4 Rhagfyr 2018



OFFERYNNAU STATUDOL
CYMRU

2018 Rhif 1215 (Cy. 248)

AMAETHYDDIAETH, CYMRU

**Rheoliadau Dosbarthu Carcasau a
Hysbysu eu Prisiau (Cymru) 2018**

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn, sy'n gymwys o ran Cymru, yn dirymu ac yn disodli Rheoliadau Dosbarthu Carcasau Eidion a Moch (Cymru) 2011 (O.S. 2011/1826 (Cy. 198)) ("Rheoliadau 2011") o ganlyniad i ddiwyddu Rheoliad y Comisiwn (EC) Rhif 1249/2008 (OJ Rhif L 337, 16.12.2008, t. 3).

Mae'r Rheoliadau'n gorfodi'r canlynol—

- Erthygl 10 o Reoliad (EU) Rhif 1308/2013 Senedd Ewrop a'r Cyngor (OJ Rhif L 347, 20.12.2013, t. 671) ac Atodiad IV iddo, sy'n ymwneud â graddfeydd yr Undeb Ewropeaidd ar gyfer dosbarthu carcasau; a
- Rheoliad Dirprwyedig y Comisiwn (EU) Rhif 2017/1182 (OJ Rhif L 171, 4.7.2017, t. 74) ("Rheoliad Dirprwyedig y Comisiwn"); a Rheoliad Gweithredu'r Comisiwn (EU) Rhif 2017/1184 (OJ Rhif L 171, 4.7.2017, t. 103) ("Rheoliad Gweithredu'r Comisiwn") sy'n nodi rhagor o fanylion ynghylch rhoi'r graddfeydd hyn ar waith.

Mae'r Rheoliadau'n ymwneud â charcasau anifeiliaid buchol llawn-dwf (sef anifeiliaid sy'n wyth mis oed neu ragor) a moch.

Mae rheoliad 5 yn ei gwneud yn ofynnol i weithredwyr lladd-dai sy'n cigydda anifeiliaid buchol llawn-dwf neu foch hysbysu Gweinidogion Cymru. Er hynny, nid yw'r Rheoliadau'n gymwys i weithredwyr buchol ar raddfa fach sy'n cigydda llai na 150 o anifeiliaid buchol llawn-dwf yr wythnos ar gyfartaledd bob blwyddyn, oni bai eu bod yn dewis dosbarthu carcasau buchol (rheoliad 6); nac i weithredwyr lladd-dai lle y mae llai na 500 o foch glân yr wythnos yn cael eu cigydda, ar gyfartaledd bob blwyddyn (rheoliad 12).

Mae'r Rheoliadau'n darparu ar gyfer system drwyddedu i unrhyw un sy'n dosbarthu carcasau buchol drwy edrych arnynt ac ar gyfer trwyddedu lladd-dai sy'n defnyddio offer graddio awtomataidd i ddsbarthu'r carcasau hynny (rheoliadau 8 i 10). Mae torri gofynion y drwydded yn drosedd (rheoliad 29).

Rhaid i waith dosbarthu carcasau moch gael ei wneud drwy ddefnyddio dull graddio a awdurdodwyd a thechnegau graddio a weithredir gan bersonél cymwys (rheoliad 14). Mae torri'r gofyniad hwn yn drosedd (rheoliad 30). Yn lle marcio carcas mochyn, caniateir i weithredwr gadw cofnod o'i ddsbarthiad (rheoliad 15).

Mae'n ofynnol i weithredwyr lladd-dai cymeradwy gadw cofnodion ynglŷn â charcasau buchol a charcasau moch yn eu tro (rheoliadau 11 ac 16 ac Atodlenni 3 a 4).

Mae Rhan 5 o'r Rheoliadau'n ymwneud â gorfodi, ac yn gwneud darpariaeth ynglŷn â phwerau swyddogion awdurdodedig, hysbysiadau gorfodi, hysbysiadau cosb ac achosion troseddol. Mae rheoliadau 20(3) a 26 i 32 yn nodi'r troseddau o dan y Rheoliadau, y gellir cosbi pob un ohonynt ar euogfarn ddiannod â dirwy, ac eithrio troseddau o dan reoliad 31(2) neu (3) (marciau ffug).

Yn benodol, mae rheoliadau 26 a 27 yn darparu bod torri darpariaethau penodedig yn neddfwriaeth yr Undeb Ewropeaidd yn drosedd, sef y darpariaethau eidion Ewropeaidd a nodir yn Atodlen 1 a'r darpariaethau moch Ewropeaidd a nodir yn Atodlen 2. Mae'r darpariaethau a bennir yn Atodlenni 1 a 2 yn cynnwys gofynion ynglŷn â chofnodi a hysbysu prisiau'r farchnad ar gyfer carcasau buchol a charcasau moch yn eu tro.

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 gan fod y diwygiadau o natur dechnegol.

OFFERYNNAU STATUDOL
CYMRU

2018 Rhif 1215 (Cy. 248)

AMAETHYDDIAETH, CYMRU

**Rheoliadau Dosbarthu Carcasau a
Hysbysu eu Prisiau (Cymru) 2018**

Gwnaed 22 Tachwedd 2018

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 23 Tachwedd 2018

Yn dod i rym 14 Rhagfyr 2018

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddir gan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 a pharagraff 1A o Atodlen 2 iddi⁽¹⁾.

Mae Gweinidogion Cymru wedi eu dynodi⁽²⁾ at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 mewn perthynas â pholisi amaethyddol cyffredin yr Undeb Ewropeaidd.

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 dehongli cyfeiriadau at y Rheoliadau a ganlyn fel cyfeiriad at y Rheoliadau hynny fel y'u diwygir o bryd i'w gilydd—

- (a) Rheoliad (EU) Rhif 1308/2013 Senedd Ewrop a'r Cyngor sy'n sefydlu cyd-drefniadaeth ar gyfer y marchnadoedd mewn cynhyrchion amaethyddol⁽³⁾;

(1) 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. Mewnosodwyd paragraff 1A o Atodlen 2 gan adran 28 o Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006.

(2) O.S. 2010/2690.

(3) OJ Rhif L 347, 20.12.2013, t. 671, fel y'i diwygiwyd ddiwethaf gan Reoliad (EU) Rhif 2017/2393 (OJ Rhif L 350, 29.12.2017, t. 15).

- (b) Rheoliad Dirprwyedig y Comisiwn (EU) Rhif 2017/1182 sy'n cydategu Rheoliad (EU) Rhif 1308/213 Senedd Ewrop a'r Cyngor o ran graddfeydd yr Undeb ar gyfer dosbarthu carcasau eidion, moch a defaid ac o ran hysbysu prisiau marchnad categorïau penodol o garcasau ac anifeiliaid byw(1); ac
- (c) Rheoliad Gweithredu'r Comisiwn (EU) Rhif 2017/1184 sy'n gosod rheolau ar gyfer cymhwyso Rheoliad (EU) Rhif 1308/2013 Senedd Ewrop a'r Cyngor o ran graddfeydd yr Undeb ar gyfer dosbarthu carcasau eidion, moch a defaid ac o ran hysbysu prisiau marchnad categorïau penodol o garcasau ac anifeiliaid byw(2).

RHAN 1

DARPARIAETHAU CYFFREDINOL

Enwi, cymhwyso a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Dosbarthu Carcasau a Hysbysu eu Prisiau (Cymru) 2018.

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

(3) Daw'r Rheoliadau hyn i rym ar 14 Rhagfyr 2018.

Dehongli

2.—(1) Yn y Rheoliadau hyn—

ystyr “anifail buchol llawn-dwF” (“*adult bovine animal*”) yw anifail buchol sy'n wyth mis oed neu ragor;

ystyr “carcas buchol” (“*bovine carcase*”) yw carcass neu hanner carcass anifail buchol llawn-dwF a gigyddwyd ac sy'n dwyn marc iechyd y darperir ar ei gyfer yn Erthygl 5(2) o Reoliad (EC) Rhif 854/2004 Senedd Ewrop a'r Cyngor a Phennod III o Adran 1 o Atodiad 1 iddo, sy'n gosod rheolau penodol ar gyfer trefnu rheolaethau swyddogol ar gynhyrchion sy'n tarddu o anifeiliaid ac a fwriedir ar gyfer eu bwyta gan bobl(3); ac yn y diffiniad hwn—

(a) ystyr “carcas” yw holl gorff anifail a gigyddwyd fel y'i cyflwynir ar ôl ei waedu, ei ddiberfeddu a thynnu ei groen, a

(1) OJ Rhif L 171, 4.7.2017, t. 74.

(2) OJ Rhif L 171, 4.7.2017, t. 103.

(3) OJ Rhif L 139, 30.4.2004, t. 206, fel y'i diwygiwyd ddiwethaf gan Reoliad y Comisiwn (EU) Rhif 2015/2285 (OJ Rhif L 323, 9.12.2015, t. 6).

(b) ystyr “hanner carcass” yw’r cynnyrch a geir drwy wahanu’r carcass yn gymesur drwy ganol pob fertebra gyddfodol, dorsal, meingefnodol a sacrol a thrwy ganol y sternwm a’r symffysis isgiopwbig;

ystyr “carcass mochyn” (“*pig carcass*”) yw corff mochyn glân sydd wedi ei gigydda, wedi ei waedu ac wedi ei ddiberfeddu, yn gyfan ynteu wedi ei rannu ar hyd y llinell ganol;

ystyr “cyfathrebiad rhagnodedig” (“*prescribed communication*”) yw cyfathrebiad o’r canlyniadau dosbarthu yn unol â gofynion Erthygl 1 o Reoliad Gweithredu’r Comisiwn;

ystyr “darpariaeth eidion Ewropeaidd” (“*European beef provision*”) yw darpariaeth a bennir yng ngholofn (2) o Atodlen 1, y disgrifir ei chynnwys yng ngholofn (3) o’r Atodlen honno;

ystyr “darpariaeth moch Ewropeaidd” (“*European pig provision*”) yw darpariaeth a bennir yng ngholofn (2) o Atodlen 2, y disgrifir ei chynnwys yng ngholofn (3) o’r Atodlen honno;

ystyr “dosbarthu” (“*classification*”) yw—

(a) dosbarthu carcassau buchol yn unol â’r darpariaethau eidion Ewropeaidd, neu

(b) dosbarthu carcassau moch yn unol â’r darpariaethau moch Ewropeaidd a rheoliad 14,

yn ôl y digwydd, ac mae termau cytras i’w dehongli yn unol â hynny;

ystyr “gweithredwr” (“*operator*”) yw person sy’n cynnal busnes lladd-dy cymeradwy;

ystyr “lladd-dy cymeradwy” (“*approved slaughterhouse*”) yw sefydliad a ddefnyddir i gigydda anifeiliaid buchol llawn-dwf neu foch, y mae eu cig wedi ei fwriadu ar gyfer ei fwyta gan bobl ac sydd wedi ei gymeradwyo neu wedi ei gymeradwyo’n amodol o dan Erthygl 4 o Reoliad (EC) Rhif 853/2004 Senedd Ewrop a’r Cyngor sy’n gosod rheolau hylendid penodol ar gyfer bwyd sy’n tarddu o anifeiliaid⁽¹⁾;

ystyr “mochyn glân” (“*clean pig*”) yw mochyn sydd heb ei ddefnyddio ar gyfer bridio;

ystyr “Rheoliad Dirprwyedig y Comisiwn” (“*Commission Delegated Regulation*”) yw Rheoliad Dirprwyedig y Comisiwn (EU) Rhif 2017/1182 sy’n cydategu Rheoliad (EU) Rhif 1308/2013 Senedd Ewrop a’r Cyngor o ran graddfeydd yr Undeb ar gyfer dosbarthu carcassau eidion, moch a defaid ac o ran hysbysu prisiau

(1) OJ Rhif L 139, 30.4.2004, t. 55, fel y’i diwygiwyd ddiwethaf gan Reoliad y Comisiwn (EU) Rhif 2017/1981 (OJ Rhif L 285, 1.11.2017, t. 10).

marchnad categorïau penodol o garcasau ac anifeiliaid byw(1);

ystyr “Rheoliad (EU) 2013” (“*Regulation (EU) 2013*”) yw Rheoliad (EU) Rhif 1308/2013 Senedd Ewrop a’r Cyngor sy’n sefydlu cyd-drefniadaeth ar gyfer y marchnadoedd mewn cynhyrchion amaethyddol;(2)

ystyr “Rheoliad Gweithredu’r Comisiwn” (“*Commission Implementing Regulation*”) yw Rheoliad Gweithredu’r Comisiwn (EU) Rhif 2017/1184 sy’n gosod rheolau ar gymhwyso Rheoliad (EU) Rhif 1308/2013 Senedd Ewrop a’r Cyngor o ran graddfeydd yr Undeb ar gyfer dosbarthu carcasau eidion, moch a defaid ac o ran hysbysu prisiau marchnad categorïau penodol o garcasau ac anifeiliaid byw(3);

ystyr “Rheoliadau 2011” (“*the 2011 Regulations*”) yw Rheoliadau Dosbarthu Carcasau Eidion a Moch (Cymru) 2011(4);

ystyr “swyddog awdurdodedig” (“*authorised officer*”) yw person a awdurdodir gan Weinidogion Cymru at ddibenion y Rheoliadau hyn, ond nid yw’n cynnwys person a benodir er mwyn ystyried apêl o dan reoliad 10.

(2) Mae i’r termau eraill a ddefnyddir yn y Rheoliadau hyn ac y defnyddir y termau Saesneg sy’n cyfateb iddynt yn Rheoliad (EU) 2013, Rheoliad Dirprwyedig y Comisiwn neu Reoliad Gweithredu’r Comisiwn, yr ystyron a ddygir gan y termau cyfatebol Saesneg yn y Rheoliadau hynny.

(3) Yn y Rheoliadau hyn, mae unrhyw gyfeiriad at—

- (a) Rheoliad (EU) 2013,
- (b) Rheoliad Dirprwyedig y Comisiwn, neu
- (c) Rheoliad Gweithredu’r Comisiwn,

i’w ddehongli fel cyfeiriad at yr offeryn hwnnw fel y’i diwygir o bryd i’w gilydd.

Darpariaethau trosiannol

3. Mae unrhyw hysbysiad, trwydded, cymeradwyaeth neu awdurdodiad a roddwyd neu a ganiatwyd o dan Reoliadau 2011 ac sy’n effeithiol pan ddaw’r Rheoliadau hyn i rym yn aros mewn grym fel pe baent wedi eu rhoi neu wedi eu caniatáu o dan y Rheoliadau hyn.

(1) OJ Rhif L 171, 4.7.2017, t. 74 .
 (2) OJ Rhif L 347, 20.12.2013, t. 671, fel y’i diwygiwyd ddiwethaf gan Reoliad (EU) Rhif 2017/2393 (OJ Rhif L 350, 29.12.2017, t. 15).
 (3) OJ Rhif L 171, 4.7.2017, t. 103.
 (4) O.S. 2011/1826 (Cy. 198).

Dirymu

4. Mae'r canlynol wedi eu dirymu—

- (a) Rheoliadau 2011; a
- (b) rheoliad 2 o Reoliadau'r Trefniant Cyffredin Sengl ar gyfer Marchnadoedd (Diwygiadau Canlyniadol) (Cymru) 2013(1).

RHAN 2

HYSBYSU GAN WEITHREDWYR

Hysbysu gan weithredwyr

5.—(1) Rhaid i bob person—

- (a) sy'n weithredwr ar y dyddiad y daw'r Rheoliadau hyn i rym, neu
- (b) sy'n dod yn weithredwr ar ddyddiad dilynol,

roi hysbysiad i Weinidogion Cymru o'r manylion a bennir ym mharagraff (3) o fewn 28 diwrnod i'r dyddiad y daw'r Rheoliadau hyn i rym neu o fewn 28 diwrnod i'r dyddiad y daw'r person hwnnw'n weithredwr, yn ôl y digwydd.

(2) Bernir bod person—

- (a) sydd wedi rhoi hysbysiad, neu y barnwyd ei fod wedi rhoi hysbysiad, o dan reoliad 5(1) neu (2) o Reoliadau 2011, a
- (b) y mae'r Rheoliadau hyn yn gymwys iddo yn rhinwedd rheoliad 6 neu 12,

wedi rhoi hysbysiad o dan baragraff (1).

(3) Dyma'r manylion ym mharagraff (1)—

- (a) enw a chyfeiriad llawn y gweithredwr;
- (b) pan fo'r gweithredwr yn bartneriaeth neu'n gydberchnogion, enwau a chyfeiriadau llawn pob un o'r partneriaid neu'r gydberchnogion;
- (c) pan fo'r gweithredwr yn gorff corfforaethol, enw llawn, cyfeiriad swyddfa gofrestrdig a rhif cofrestru'r corff; a
- (d) cyfeiriad, rhif teleffon a rhif cymeradwyo'r lladd-dy.

(4) Pan fo unrhyw newid yn digwydd mewn unrhyw un neu ragor o'r manylion a bennir ym mharagraff (3), rhaid i'r gweithredwr, o fewn 28 diwrnod i ddyddiad y newid, roi hysbysiad o fanylion y newid i Weinidogion Cymru.

(5) Pan fo gweithredwr ("G") yn peidio â bod yn weithredwr lladd-dy cymeradwy, rhaid i G, o fewn 10 niwrnod i'r dyddiad y peidiodd â bod yn weithredwr

(1) O.S. 2013/3270 (Cy. 320).

o'r fath, roi hysbysiad i Weinidogion Cymru o'r canlynol—

- (a) y dyddiad y peidiodd â bod yn weithredwr o'r fath; a
- (b) y person (os oes un) sy'n olynu G fel gweithredwr y lladd-dy hwnnw.

(6) Pan fo lladd-dy cymeradwy'n peidio â bod yn lladd-dy o'r fath, rhaid i weithredwr y lladd-dy, o fewn 10 niwrnod i'r dyddiad y peidiodd â bod yn lladd-dy o'r fath, roi hysbysiad i Weinidogion Cymru o'r dyddiad y peidiodd â bod yn lladd-dy o'r fath.

RHAN 3

CARCASAU BUCHOL

Cymhwyso'r Rheoliadau hyn at weithredwyr buchol ar raddfa fach

6.—(1) Nid yw'n ofynnol i weithredwr buchol ar raddfa fach ddsbarthu carcasau buchol.

(2) Nid yw'r Rheoliadau hyn yn gymwys i weithredwr buchol ar raddfa fach nad yw'n dosbarthu carcasau buchol.

(3) Ond, os bydd gweithredwr buchol ar raddfa fach yn dewis dosbarthu carcasau buchol, mae'r Rheoliadau hyn yn gymwys mewn perthynas â'r gweithredwr hwnnw ac mewn perthynas â dosbarthu'r carcasau hynny.

(4) Yn y rheoliad hwn, ystyr "gweithredwr buchol ar raddfa fach" yw gweithredwr lladd-dy cymeradwy lle y mae llai na 150 o anifeiliaid buchol llawn-dwf yn cael eu cigydda bob wythnos, ar gyfartaledd dros flwyddyn.

(5) Ni fernir bod unrhyw weithredwr buchol ar raddfa fach yr oedd yn ofynnol iddo, nes i'r Rheoliadau hyn ddod i rym, ddsbarthu carcasau buchol o dan Reoliadau 2011 wedi dewis gwneud hynny at ddibenion paragraff (3) am y rheswm hwnnw yn unig.

(6) Nid oes dim yn y rheoliad hwn sy'n rhwystro'r Rheoliadau hyn rhag cael eu cymhwyso at weithredwr mewn perthynas â charcasau moch, os oes moch hefyd yn cael eu cigydda yn lladd-dy'r gweithredwr hwnnw.

Awdurdodau cymwys: carcasau buchol

7.—(1) Gweinidogion Cymru yw'r awdurdod cymwys at ddibenion—

- (a) Erthygl 12(2)(b) o Reoliad Dirprwyedig y Comisiwn (darpariaethau ychwanegol ar ddsbarthu drwy dechnegau graddio awtomataidd);

- (b) Erthyglau 13 a 14 o Reoliad Dirprwyedig y Comisiwn ac Erthygl 14 o Reoliad Gweithredu'r Comisiwn (hysbysu prisiau'r farchnad a chyfrifo pris cyfartalog pob dosbarth);
- (c) Erthygl 17(2) o Reoliad Dirprwyedig y Comisiwn (darpariaethau atodol ar hysbysu prisiau marchnad carcasau);
- (d) Erthygl 4(1) o Reoliad Gweithredu'r Comisiwn (gwneud a chadw adroddiadau ar gyfer gwiriadau yn y fan a'r lle).

(2) Gweinidogion Cymru sy'n gyfrifol am y canlynol—

- (a) Erthygl 10 o Reoliad Dirprwyedig y Comisiwn (awdurdodi dulliau graddio awtomataidd);
- (b) Erthygl 25 o Reoliad Dirprwyedig y Comisiwn (hysbysu'r Comisiwn);
- (c) gwiriadau yn y fan a'r lle, yn unol â'r disgrifiad o "on-the-spot checks" yn Erthyglau 2 a 3 o Reoliad Gweithredu'r Comisiwn.

Trwydded i ymgymryd â dosbarthu

8.—(1) Caiff Gweinidogion Cymru ganiatáu trwydded i ymgymryd â dosbarthu carcasau buchol drwy edrych arnynt i unrhyw berson sy'n gwneud cais am drwydded o'r fath ac sy'n ymddangos i Weinidogion Cymru ei fod yn gymwys i ymgymryd â'r dosbarthu, os yw Gweinidogion Cymru wedi eu bodloni bod y ceisydd yn berson addas a phriodol i ymgymryd â dosbarthu carcasau buchol.

(2) Caniateir i'r drwydded gael ei rhoi yn ddarostyngedig i unrhyw delerau ac amodau y mae Gweinidogion Cymru'n ystyried eu bod yn angenrheidiol at ddibenion paragraff (1).

(3) Yn ychwanegol at y pŵer i ddirymu trwydded yn yr amgylchiadau a grybwyllir yn Erthygl 4(2) o Reoliad Gweithredu'r Comisiwn (dosbarthiadau, cyflwyniadau neu adnabyddiadau anghywir), caiff Gweinidogion Cymru atal dros dro neu ddirymu trwydded a ganiatawyd i berson o dan y rheoliad hwn—

- (a) os yw'r person wedi torri unrhyw un neu ragor o delerau neu amodau'r drwydded honno; neu
- (b) os yw Gweinidogion Cymru wedi eu bodloni nad yw'r person sy'n dal y drwydded honno yn berson addas a phriodol mwyach i ymgymryd â dosbarthu carcasau buchol.

(4) Pan fo Gweinidogion Cymru'n gwneud unrhyw benderfyniad mewn perthynas â thrwydded o dan y

rheoliad hwn, a'r penderfyniad hwnnw'n ysgogi hawl i apelio o dan reoliad 10, rhaid i Weinidogion Cymru—

- (a) hysbysu'r person am y penderfyniad mewn ysgrifen;
- (b) rhoi'r rhesymau; ac
- (c) esbonio bod yna hawl i apelio i berson a benodir gan Weinidogion Cymru.

Trwydded ar gyfer graddio awtomataidd

9.—(1) Caiff Gweinidogion Cymru ganiatáu trwydded i weithredwr lladd-dy cymeradwy i awdurdodi defnyddio offer graddio awtomataidd i ddsbarthu carcasau buchol yn y lladd-dy hwnnw, os yw Gweinidogion Cymru wedi eu bodloni y byddai'r offer a'i ddull gweithredu yn bodloni'r safonau sy'n ofynnol gan Erthyglau 9(b) a 10(2) (o'u darllen gyda Rhan A o Atodiad IV) o Reoliad Dirprwyedig y Comisiwn.

(2) Caniateir i'r drwydded gael ei rhoi yn ddarostyngedig i unrhyw delerau ac amodau y mae eu hangen er mwyn sicrhau y cydymffurfir â'r safonau hynny.

(3) Yn ychwanegol at y pŵer i ddirymu trwydded yn yr amgylchiadau a grybwyllir yn Erthygl 4(2) o Reoliad Gweithredu'r Comisiwn, caiff Gweinidogion Cymru atal dros dro neu ddirymu trwydded a ganiatawyd i weithredwr o dan y rheoliad hwn—

- (a) os yw'r gweithredwr wedi torri unrhyw un neu ragor o delerau neu amodau'r drwydded; neu
- (b) os yw Gweinidogion Cymru yn ystyried nad yw'r offer graddio awtomataidd mwyach yn bodloni'r safonau sy'n ofynnol gan Reoliad Dirprwyedig y Comisiwn, pa un ai am resymau sy'n gysylltiedig â'r offer ei hun neu'r modd y defnyddir yr offer gan y gweithredwr.

(4) Pan fo Gweinidogion Cymru'n gwneud unrhyw benderfyniad mewn perthynas â thrwydded o dan y rheoliad hwn, a'r penderfyniad hwnnw'n ysgogi hawl i apelio o dan reoliad 10, rhaid i Weinidogion Cymru—

- (a) hysbysu'r person am y penderfyniad mewn ysgrifen;
- (b) rhoi'r rhesymau; ac
- (c) esbonio bod yna hawl i apelio i berson a benodir gan Weinidogion Cymru.

Apelau ynghylch trwyddedau

10.—(1) Caniateir i berson apelio yn erbyn—

- (a) penderfyniad gan Weinidogion Cymru i wrthod cais gan y person hwnnw am drwydded o dan reoliad 8 neu 9;
- (b) teler neu amod a osodwyd gan Weinidogion Cymru mewn trwydded a ganiatawyd i'r person hwnnw o dan reoliad 8 neu 9; neu
- (c) penderfyniad gan Weinidogion Cymru i atal dros dro neu ddirymu trwydded o dan reoliad 8 neu 9.

(2) Rhaid i'r apêl gael ei gwneud i berson a benodir at y diben gan Weinidogion Cymru.

(3) Caiff Gweinidogion Cymru hefyd gyflwyno sylwadau ysgrifenedig i'r person a benodir ynglŷn â'r penderfyniad.

(4) Rhaid i'r person a benodir ystyried yr apêl ac unrhyw sylwadau a gyflwynir gan Weinidogion Cymru, a rhaid iddo gyflwyno adroddiad ysgrifenedig i Weinidogion Cymru gyda'i gasgliadau ar yr apêl ac argymhelliad ar sut y dylai'r mater gael ei benderfynu'n derfynol gan Weinidogion Cymru.

(5) Wedyn rhaid i Weinidogion Cymru gyrraedd penderfyniad terfynol, a hysbysu'r person a wnaeth yr apêl am y penderfyniad hwnnw a'r rhesymau drosto.

Cofnodion: carcassau buchol

11.—(1) Rhaid i weithredwr lladd-dy cymeradwy gadw cofnod o'r manylion a bennir yn Atodlen 3 ynglŷn â phob carcass buchol a ddosberthir yn y lladd-dy hwnnw.

(2) Rhaid i'r gweithredwr ddal gafael ar bob cofnod am gyfnod o 12 mis o ddiwedd y flwyddyn galendr y mae'r cofnod yn berthynol iddi.

RHAN 4

CARCASAU MOCH

Esemptiad i weithredwyr moch ar raddfa fach

12.—(1) Nid yw'r Rheoliadau hyn yn gymwys i weithredwr lladd-dy cymeradwy lle y mae llai na 500 o foch glân yn cael eu cigydda bob wythnos, ar gyfartaledd dros flwyddyn.

(2) Nid oes dim ym mharagraff (1) sy'n rhwystro'r Rheoliadau hyn rhag cael eu cymhwyso at weithredwr mewn perthynas â charcasau buchol, os oes anifeiliaid buchol llawn-dwf hefyd yn cael eu cigydda yn lladd-dy'r gweithredwr hwnnw.

Awdurdod cymwys: carcassau moch

13.—(1) Gweinidogion Cymru yw'r awdurdod cymwys at ddibenion y canlynol—

- (a) Erthygl 7(4) o Reoliad Dirprwyedig y Comisiwn (dosbarthu a phwyso);
- (b) Erthygl 12(2)(b) o Reoliad Dirprwyedig y Comisiwn (darpariaethau ychwanegol ar ddosbarthu drwy dechnegau graddio awtomataidd);
- (c) Erthyglau 13 a 14 o Reoliad Dirprwyedig y Comisiwn ac Erthygl 14 o Reoliad Gweithredu'r Comisiwn (hysbysu prisiau'r farchnad a chyfrifo pris cyfartalog pob dosbarth);
- (d) Erthygl 17(2) o Reoliad Dirprwyedig y Comisiwn (darpariaethau atodol ar hysbysu prisiau marchnad carcasau);
- (e) Erthygl 4(1) o Reoliad Gweithredu'r Comisiwn (gwneud a chadw adroddiadau ar gyfer gwiriadau yn y fan a'r lle).
- (f) Gweinidogion Cymru sy'n gyfrifol am y canlynol—
- (g) Erthygl 11 o Reoliad Dirprwyedig y Comisiwn (awdurdodi dulliau graddio awtomataidd);
- (h) Erthygl 25 o Reoliad Dirprwyedig y Comisiwn (hysbysu'r Comisiwn);
- (i) gwiriadau yn y fan a'r lle, yn unol â'r disgrifiad o “on-the-spot checks” yn Erthyglau 2 a 3 o Reoliad Gweithredu'r Comisiwn.

Dulliau graddio awdurdodedig

14.—(1) Rhaid ymgymryd â dosbarthu carcasau moch mewn lladd-dy cymeradwy—

- (a) drwy ddefnyddio dull graddio awdurdodedig y darperir ar ei gyfer yn Erthygl 11 o Reoliad Dirprwyedig y Comisiwn; a
- (b) drwy ddefnyddio technegau graddio y darperir ar eu cyfer yn Erthygl 11 o Reoliad Dirprwyedig y Comisiwn a'r rheiny'n cael eu gweithredu gan bersonél cymwys.

(2) Yn y rheoliad hwn, mae “personél cymwys” yn cyfeirio at unrhyw berson sy'n hyfedr wrth ddefnyddio'r offer a'r technegau graddio sy'n cael eu gweithredu gan y person hwnnw.

Cofnodion yn lle marcio

15. Caiff gweithredwr neu'r person sy'n gyfrifol am ddosbarthu moch, yn hytrach na marcio carcas yn unol â'r darpariaethau moch Ewropeaidd a nodir yn Rhan 2 o Atodlen 2, lunio cofnod ar gyfer y carcas hwnnw sy'n cynnwys o leiaf—

- (a) modd i adnabod y carcass yn unigol drwy unrhyw ddull nad oes modd ei newid;
- (b) pwysau cynnes y carcass; ac
- (c) canlyniad y dosbarthiad.

Cofnodion: carcassau moch

16.—(1) Rhaid i weithredwr lladd-dy cymeradwy gadw cofnod o'r manylion a bennir yn Atodlen 4 ynglŷn â phob carcass mochyn a ddsberthir yn y lladd-dy hwnnw.

(2) Rhaid i'r gweithredwr ddal gafael ar bob cofnod am gyfnod o 12 mis o ddiwedd y flwyddyn galendr y mae'r cofnod yn berthynol iddi.

RHAN 5

GORFODI A THROSEDDAU

Hysbysiadau

17.—(1) Rhaid i unrhyw hysbysiad y mae'n ofynnol ei roi, neu yr awdurdodir ei roi, i unrhyw berson o dan y Rheoliadau hyn fod mewn ysgrifen.

(2) Caniateir i unrhyw hysbysiad o'r fath gael ei roi—

- (a) drwy ei drosglwyddo i'r person;
- (b) drwy ei adael yng nghyfeiriad priodol y person; neu
- (c) drwy ei anfon drwy'r post at y person yn y cyfeiriad hwnnw.

(3) Pan fo unrhyw hysbysiad o'r fath i gael ei roi i gorff corfforaethol, caniateir iddo gael ei roi i un o swyddogion y corff.

(4) At ddiben y rheoliad hwn, cyfeiriad priodol unrhyw berson y mae hysbysiad i gael ei roi iddo yw cyfeiriad hysbys olaf y person hwnnw, ac eithrio mai'r cyfeiriad priodol, yn achos corff corfforaethol neu un o swyddogion y corff, yw cyfeiriad swyddfa gofrestredig neu brif swyddfa'r corff hwnnw.

(5) Yn y rheoliad hwn—

ystyr “cyfarwyddwr” (“*director*”), mewn perthynas â chorff corfforaethol y rheolir ei faterion gan ei aelodau, yw aelod o'r corff corfforaethol; ac

ystyr “swyddog” (“*officer*”), mewn perthynas â chorff corfforaethol, yw unrhyw gyfarwyddwr, rheolwr, ysgrifennydd neu swyddog cyffelyb arall i'r corff corfforaethol.

Pwerau mynediad

18.—(1) Caiff swyddog awdurdodedig, ar unrhyw adeg resymol ac, os gofynnir iddo, ar ôl dangos awdurdodiad a ddilyswyd yn briodol, fynd i mewn i ladd-dy cymeradwy ac unrhyw fangre gysylltiedig, lle y gall carcasau fod yn cael eu trin, neu lle y gall cofnodion ynglŷn â'r carcasau hynny fod yn cael eu cadw, er mwyn canfod—

- (a) a oes unrhyw drosedd o dan y Rheoliadau hyn yn cael, neu wedi cael, ei chyflawni yn y fangre; neu
- (b) a oes unrhyw dystiolaeth yn y fangre o unrhyw drosedd o'r fath.

(2) Caiff y swyddog fynd ag unrhyw bersonau eraill y mae'n credu eu bod yn angenrheidiol gydag ef.

(3) Caiff ynad heddwch, drwy warant wedi ei llofnodi, ganiatáu i swyddog awdurdodedig fynd i mewn i unrhyw fangre, drwy rym rhesymol os bydd angen hynny, os yw wedi ei fodloni ar sail gwybodaeth ysgrifenedig a roddir ar lw—

- (a) bod sail resymol dros fynd i mewn i'r fangre at unrhyw ddiben ym mharagraff (1); a
- (b) bod unrhyw un neu ragor o'r amodau a ganlyn wedi eu bodloni—
 - (i) bod mynediad i'r fangre wedi ei wrthod, neu y rhagwelir y caiff ei wrthod, ac (yn y naill achos neu'r llall) fod hysbysiad o'r bwriad i wneud cais am warant wedi ei roi i'r gweithredwr;
 - (ii) y byddai gwneud cais am fynediad, neu roi hysbysiad o'r fath, yn tansilio'r diben o fynd i mewn;
 - (iii) bod yr achos yn achos brys; neu
 - (iv) bod y fangre'n wag neu fod y gweithredwr yn absennol dros dro,

(4) Mae gwarant a ganiateir o dan y rheoliad hwn yn parhau mewn grym am dri mis.

(5) Rhaid i swyddog sy'n mynd i mewn i unrhyw fangre wag, neu fangre sydd â'i gweithredwr yn absennol dros dro, adael y fangre wedi ei diogelu mor effeithiol rhag mynediad diawdurdod ag yr oedd cyn i'r swyddog fynd i mewn.

Pwerau swyddogion awdurdodedig

19. Caiff swyddog awdurdodedig sy'n mynd i mewn i fangre o dan y Rheoliadau hyn—

- (a) arolygu unrhyw garcas buchol neu garcas mochyn neu ran o garcas o'r fath, neu unrhyw garcas neu ran o garcas y mae'r swyddog yn amau'n rhesymol ei fod yn garcas buchol neu garcas mochyn neu ran o garcas o'r fath;

- (b) archwilio unrhyw gofnod y mae'n ofynnol i weithredwr ei gadw o dan reoliad 11 neu 16 neu o dan Reoliad Dirprwyedig y Comisiwn neu Reoliad Gweithredu'r Comisiwn, a phan ddefnyddir cyfrifiadur i gadw'r cofnod hwnnw, cael mynediad i unrhyw gyfrifiadur a chyfarpar neu ddeunydd cysylltiedig, a ddefnyddir neu a ddefnyddiwyd mewn cysylltiad â'r cofnod hwnnw, ac arolygu a gwirio gweithrediad y cyfryw gyfrifiadur a chyfarpar neu ddeunydd cysylltiedig;
- (c) ei gwneud yn ofynnol i gopïau neu ddarnau o unrhyw gofnod o'r fath gael eu dangos a, pan ddefnyddir cyfrifiadur i gadw'r cofnod hwnnw, ei gwneud yn ofynnol i'r cofnod gael ei ddangos ar ffurf a fydd yn caniatáu iddo gael ei gludo ymaith; a
- (d) dal gafael ar unrhyw gofnod o'r fath y mae gan y swyddog reswm dros gredu y gall fod yn angenrheidiol fel tystiolaeth mewn achos o dan y Rheoliadau hyn.

Hysbysiadau gorfodi

20.—(1) Os oes gan Weinidogion Cymru reswm dros gredu bod person wedi cyflawni trosedd o dan y Rheoliadau hyn, caiff Gweinidogion Cymru roi hysbysiad gorfodi i'r person hwnnw yn unol â pharagraff (2).

(2) Rhaid i hysbysiad gorfodi—

- (a) datgan ar ba sail y mae Gweinidogion Cymru'n credu bod trosedd wedi ei chyflawni;
- (b) pennu'r mater sy'n cyfansoddi'r drosedd;
- (c) pennu'r hyn y mae'n rhaid i'r person hwnnw beidio â'i wneud, neu'r mesurau y mae'n rhaid, ym marn Gweinidogion Cymru, i'r person hwnnw eu cymryd er mwyn cydymffurfio â'r Rheoliadau hyn;
- (d) ei gwneud yn ofynnol i'r person beidio â chyflawni'r weithred a bennir yn yr hysbysiad, neu gymryd y mesurau a bennir yn yr hysbysiad, neu fesurau sydd o leiaf yn gyfwerth â'r rheiny, o fewn y cyfnod (nad yw'n llai na 14 diwrnod) a bennir yn yr hysbysiad;
- (e) hysbysu'r person am yr hawl i apelio a roddir gan reoliad 21; ac
- (f) hysbysu'r person o fewn pa gyfnod y caniateir i apel o'r fath gael ei gwneud.

(3) Mae unrhyw berson sy'n torri hysbysiad gorfodi neu'n methu â chydymffurfio ag ef yn euog o drosedd.

Apelau yn erbyn hysbysiadau gorfodi

21.—(1) Caiff person apelio i lys ynadon yn erbyn hysbysiad gorfodi os oes gan y person hwnnw reswm dros gredu na ddylai'r hysbysiad fod wedi ei roi.

(2) Caiff person apelio o fewn y cyfnod o un mis sy'n cychwyn gyda'r dyddiad y rhoddwyd yr hysbysiad.

(3) Y weithdrefn a ddilynir yw gwneud cwyn am orchymyn; a bydd Deddf Llysoedd Ynadon 1980(1) yn gymwys i'r achos.

(4) Ar apêl, caiff y llys naill ai ddidymu'r hysbysiad neu ei gadarnhau, ac os bydd yn ei gadarnhau caiff wneud hynny naill ai yn ei ffurf wreiddiol neu gyda pha addasiadau bynnag y mae'r llys yn meddwl eu bod yn briodol.

Hysbysiadau cosb

22.—(1) Os oes gan Weinidogion Cymru reswm dros gredu bod person wedi cyflawni trosedd o dan y Rheoliadau hyn, caiff Gweinidogion Cymru roi hysbysiad (“hysbysiad cosb”) i'r person hwnnw yn unol â pharagraffau (2) a (3).

(2) Caiff hysbysiad cosb fod am unrhyw swm.

(3) Rhaid i hysbysiad cosb—

- (a) rhoi unrhyw fanylion am amgylchiadau'r drosedd honedig sy'n angenrheidiol i roi gwybodaeth resymol am y drosedd;
- (b) datgan swm y gosb;
- (c) datgan yn ystod pa gyfnod, yn rhinwedd rheoliad 23, na chychwynir achos ynglŷn â'r drosedd;
- (d) datgan i ba berson ac ym mha gyfeiriad y gellir talu'r gosb; ac
- (e) datgan ym mha fodd y caniateir i'r taliad gael ei wneud.

Cyfyngiad ar ddwyn achos am drosedd cosb

23.—(1) Pan fo hysbysiad cosb wedi ei roi i berson—

- (a) ni chaniateir dwyn achos yn erbyn y person hwnnw am y drosedd y mae'r hysbysiad yn ymwneud â hi cyn diwedd y cyfnod o 28 diwrnod sy'n cychwyn ar y dyddiad y rhoddwyd yr hysbysiad; a
- (b) ni chaniateir euogfarnu'r person hwnnw am y drosedd os telir y gosb yn unol â rheoliad 24 cyn diwedd y cyfnod hwnnw.

(1) 1980 p. 43; amnewidiwyd adrannau 51 a 52 gan Ddeddf Llysoedd 2003 (p. 39), adran 47.

(2) Nid yw paragraff (1) yn gymwys os tynnir yr hysbysiad cosb yn ôl yn unol â rheoliad 25.

Talu'r gosb

24.—(1) Rhaid talu unrhyw gosb i Weinidogion Cymru drwy ei hanfon drwy'r post neu drwy unrhyw ddull a bennir yn yr hysbysiad cosb.

(2) Mewn unrhyw achos, bydd tystysgrif yr honnir ei bod wedi ei llofnodi gan Weinidogion Cymru neu ar eu rhan yn datgan bod taliad o gosb wedi ei gael neu heb ei gael erbyn y dyddiad a bennir yn y dystysgrif yn dystiolaeth o'r ffeithiau a ddatgenir.

Tynnu hysbysiad cosb yn ôl

25.—(1) Caniateir i hysbysiad cosb gael ei dynnu'n ôl os oes gan Weinidogion Cymru reswm dros gredu na ddylai fod wedi ei roi (pa un ai i'r person a enwyd yn yr hysbysiad cosb, neu fel arall).

(2) Caniateir i hysbysiad cosb gael ei dynnu'n ôl gan Weinidogion Cymru drwy roi hysbysiad i'r person a enwyd yn yr hysbysiad cosb cyn i'r gosb gael ei thalu neu ar ôl i'r gosb gael ei thalu.

(3) Pan dynnir hysbysiad cosb yn ôl, rhaid i Weinidogion Cymru ad-dalu unrhyw gosb a dalwyd o dan yr hysbysiad cosb i'r person a enwyd yn yr hysbysiad cosb o fewn 28 diwrnod, gan gychwyn gyda'r dyddiad yr anfonwyd yr hysbysiad bod yr hysbysiad cosb wedi ei dynnu'n ôl.

Troseddau: darpariaethau eidion Ewropeaidd

26. Mae unrhyw berson sydd—

- (a) yn methu â chydymffurfio ag unrhyw ofyniad o dan ddarpariaeth eidion Ewropeaidd; neu
- (b) yn torri unrhyw waharddiad a gynhwysir mewn darpariaeth eidion Ewropeaidd,
- (c) yn euog o drosedd.

Troseddau: darpariaethau moch Ewropeaidd

27.—(1) Mae unrhyw berson sydd—

- (a) yn methu â chydymffurfio ag unrhyw ofyniad o dan ddarpariaeth moch Ewropeaidd; neu
- (b) yn torri unrhyw waharddiad a gynhwysir mewn darpariaeth moch Ewropeaidd,

yn euog o drosedd.

(2) Ond pan fydd gweithredwr neu'r person sy'n gyfrifol am ddosbarthu carcasau moch yn llunio cofnod gan gydymffurfio â'r amodau y cyfeirir atynt yn rheoliad 15 (cofnodion yn lle marcio) ni chyflawnir trosedd drwy fethu â chydymffurfio â darpariaeth moch Ewropeaidd Rhan 2 neu drwy ei thorri.

(3) Yn y rheoliad hwn, ystyr, “darpariaeth moch Ewropeaidd Rhan 2” yw darpariaeth a bennir yng ngholofn (2) o Ran 2 o Atodlen 2.

Troseddau: hysbysiadau gan weithredwyr

28. Mae unrhyw berson sy'n methu â chydymffurfio ag unrhyw un neu ragor o ofynion rheoliad 5 (hysbysiadau gan weithredwyr) yn euog o drosedd.

Troseddau: trwyddedau (carcasau buchol)

29.—(1) Os ymgwymerir â dosbarthu carcas buchol mewn lladd-dy cymeradwy—

- (a) heb drwydded a ganiatawyd o dan reoliad 8, neu
- (b) gan dorri unrhyw un neu ragor o amodau neu delerau trwydded o'r fath,

mae'r person sy'n ymgymryd â'r dosbarthu a gweithredwr y lladd-dy hwnnw ill dau'n euog o drosedd.

(2) Os ymgwymerir â dosbarthu carcas buchol mewn lladd-dy cymeradwy drwy ddefnyddio offer graddio awtomataidd—

- (a) heb drwydded a ganiatawyd o dan reoliad 9 i ddefnyddio'r offer hwnnw yn y lladd-dy hwnnw, neu
- (b) gan dorri unrhyw un neu ragor o amodau neu delerau trwydded o'r fath,

mae'r person sy'n ymgymryd â'r dosbarthu hwnnw a gweithredwr y lladd-dy hwnnw ill dau'n euog o drosedd.

(3) Mae unrhyw berson sy'n gwneud newid mewn trwydded a ganiatawyd o dan reoliad 8 neu 9 yn euog o drosedd.

Troseddau: dulliau graddio awdurdodedig (carcasau moch)

30. Os ymgwymerir â dosbarthu carcas mochyn mewn lladd-dy cymeradwy drwy ddefnyddio dull graddio neu dechneg graddio mewn modd nad yw'n cydymffurfio â gofynion rheoliad 14, mae'r person sy'n ymgymryd â'r dosbarthu a gweithredwr y lladd-dy hwnnw ill dau'n euog o drosedd.

Troseddau: cofnodion a marciau

31.—(1) Mae unrhyw berson sy'n methu â chydymffurfio ag unrhyw un neu ragor o ofynion rheoliad 11 (cofnodion: carcasau buchol) neu reoliad 16 (cofnodion: carcasau moch) yn euog o drosedd.

(2) Mae unrhyw berson sy'n marcio carcas buchol neu ran o garcas o'r fath—

(a) fel y rhagnodir gan Erthygl 8(1), (2)(a), (3)(a) (o'u darllen gydag ail baragraff Erthygl 8(3)), (4) a (5) o Reoliad Dirprwyedig y Comisiwn, neu

(b) mewn modd sy'n debyg iawn i'r marc a ragnodir yn y darpariaethau hynny,

sy'n debygol o gamarwain, yn euog o drosedd.

(3) Mae unrhyw berson sy'n marcio carcass mochyn neu ran o garcas o'r fath—

(a) fel y rhagnodir gan Erthygl 8(1), (2)(b), (3)(c) (o'u darllen gydag ail baragraff Erthygl 8(3)), (4) a (5) o Reoliad Dirprwyedig y Comisiwn, neu

(b) mewn modd sy'n debyg iawn i'r marc a ragnodir yn y darpariaethau hynny,

sy'n debygol o gamarwain, yn euog o drosedd.

Troseddau: rhwystru etc.

32. Mae unrhyw berson—

(a) sydd heb esgus rhesymol, yn rhwystru unrhyw berson sy'n gweithredu o dan y Rheoliadau hyn,

(b) sydd heb achos rhesymol, yn methu â rhoi i unrhyw berson sy'n gweithredu o dan y Rheoliadau hyn unrhyw gymorth neu wybodaeth y mae'r person hwnnw yn rhesymol yn ei gwneud yn ofynnol er mwyn cyflawni swyddogaethau o dan y Rheoliadau hyn,

(c) sy'n rhoi i unrhyw berson sy'n gweithredu o dan y Rheoliadau hyn unrhyw wybodaeth gan wybod ei bod yn ffug neu'n gamarweiniol, neu

(d) sy'n methu â dangos unrhyw ddogfen neu gofnod pan fo unrhyw berson sy'n gweithredu o dan y Rheoliadau hyn yn ei gwneud yn ofynnol iddo wneud hynny,

yn euog o drosedd.

Y cyfnod ar gyfer dwyn erlyniad

33.—(1) Caniateir i achos am drosedd o dan reoliadau 20(3), 26, 27, 28, 29, 30, 31(1) neu 32 gael ei ddwyn o fewn cyfnod o 12 mis o'r dyddiad y daeth yr erlynydd i wybod gyntaf am dystiolaeth ddigonol, ym marn yr erlynydd, i gyfiawnhau achos.

(2) Ond ni chaniateir i achos o'r fath gael ei ddwyn ymhén mwy na 18 mis ers i'r drosedd gael ei chyflawni.

(3) At ddibenion paragraff (1)—

(a) mae tystysgrif a lofnodwyd gan yr erlynydd neu ar ei ran ac sy'n datgan y dyddiad y daeth

yr erlynydd i wybod gyntaf am dystiolaeth ddigonol i gyfiawnhau'r achos yn dystiolaeth derfynol o'r ffaith honno;

- (b) bernir bod tystysgrif sy'n datgan y mater ac sy'n honni ei bod wedi ei llofnodi felly wedi ei llofnodi felly, oni phrofir i'r gwrthwyneb.

Troseddau gan gyrff corfforaethol

34.—(1) Os profir bod trosedd o dan y Rheoliadau hyn a gyflawnwyd gan gorff corfforaethol wedi ei chyflawni drwy gydsyniad neu ymoddefiad swyddog, neu i'w phriodoli i unrhyw esgeulustod ar ran swyddog, mae'r swyddog hwnnw yn ogystal â'r corff corfforaethol yn euog o'r drosedd ac yn agored i'w erlyn a'i gosbi yn unol â hynny.

(2) Pan fo materion corff corfforaethol yn cael eu rheoli gan ei aelodau, mae paragraff (1) yn gymwys mewn perthynas â gweithredoedd ac anweithredoedd aelod, mewn cysylltiad â swyddogaethau'r aelod hwnnw o reoli, fel pe bai'r aelod hwnnw'n gyfarwyddwr i'r corff.

(3) Yn y rheoliad hwn, ystyr "swyddog" mewn perthynas â chorff corfforaethol yw cyfarwyddwr, aelod o'r pwyllgor rheoli, prif weithredwr, rheolwr, ysgrifennydd neu swyddog cyffelyb arall i'r corff, neu berson sy'n honni gweithredu mewn unrhyw swydd o'r fath.

Amddiffyniad diwydrwydd dyladwy

35. Mae'n amddiffyniad os gall person a gyhuddir o drosedd o dan y Rheoliadau hyn ("P"), profi bod P wedi cymryd pob rhagofal rhesymol ac wedi arfer pob diwydrwydd dyladwy i osgoi cyflawni'r drosedd gan P neu gan berson o dan reolaeth P.

Troseddau: cosbi

36.—(1) Mae person sy'n euog o drosedd o dan y canlynol—

- (a) rheoliad 20(3) (hysbysiadau gorfodi),
- (b) rheoliad 26 (darpariaethau eidion Ewropeaidd),
- (c) rheoliad 27 (darpariaethau moch Ewropeaidd),
- (d) rheoliad 28 (hysbysiadau gan weithredwyr),
- (e) rheoliad 29 (trwyddedau (carcasau buchol)),
- (f) rheoliad 30 (dulliau graddio awdurdodedig: (carcasau moch)),
- (g) rheoliad 31(1) (cofnodion), neu
- (h) rheoliad 32 (rhwyströ etc.),

yn agored, o'i euogfarnu'n ddiannod, i ddirwy.

(2) Mae person sy'n euog o drosedd o dan reoliad
31(2) neu (3) (marciau camarweiniol etc.) yn agored—

- (a) o'i euogfarnu'n ddiannod, i ddirwy; neu
- (b) o'i euogfarnu ar ddiad, i ddirwy.

Lesley Griffiths

Ysgrifennydd y Cabinet dros Ynni, Cynllunio a
Materion Gwledig, un o Weinidogion Cymru
22 Tachwedd 2018

ATODLEN 1 Rheoliad 2

Darpariaethau Ewropeaidd: carcasau
buchol

<i>(1) Y Rheoliad sy'n cynnwys y ddarpariaeth Ewropeaidd</i>	<i>(2) Y ddarpariaeth</i>	<i>(3) Y cynnwys</i>
Rheoliad (EU) 2013	Erthygl 10 ac Atodiad IV, pwynt A(II), ynghyd ag Erthygl 1 o Reoliad Dirprwyedig y Comisiwn (o'u darllen gyda Rheoliadau Adnabod Gwartheg (Cymru) 2007 ⁽¹⁾)	Gofyniad i ddynodi categori'r carcas fel y'i pennir yn y darpariaethau hyn
	Erthygl 10 ac Atodiad IV, pwynt A(III), ynghyd ag Erthygl 3(1) o Reoliad Dirprwyedig y Comisiwn, ac Atodiad 1 iddo	Gofyniad i ddynodi, mewn perthynas â charcas, dosbarth y cydffurfiad a'r gorchudd braster fel y'i pennir yn y darpariaethau hyn
	Erthygl 10 ac Atodiad IV, pwynt A(IV)	Gofyniad i gyflwyno carcasau yn y dull penodedig
	Erthygl 10 ac Atodiad IV, pwynt A(V), yr is-baragraff cyntaf	Gofyniad i ladd-dai cymeradwy ddosbarthu a nodi carcasau yn unol â graddfa'r Undeb
Rheoliad Dirprwyedig y	Erthygl 6(1)	Gwahardd tynnu braster,

(1) O.S. 2007/842 (Cy. 74). Mae Rheoliadau Adnabod Gwartheg (Cymru) 2007 yn sefydlu system adnabod a chofrestru anifeiliaid buchol yng Nghymru, fel y'i pennir yn Erthygl 1 o Reoliad (EU) 2013.

Comisiwn	cyhyr neu feinwe arall cyn pwyso, graddio a marcio
Erthygl 6(3)	Gofyniad i gyflwyno'r carcas yn y dull penodedig, er mwyn canfod prisiau'r farchnad
Erthygl 7(1)	Gofyniad ynghylch lle ac amser y dosbarthu
Erthygl 7(3)(a)	Gofynion ynghylch amser y dosbarthu a'r pwyso
Erthygl 7(5)	Gofyniad ynghylch amser y dosbarthu mewn achosion lle y mae dull graddio awtomataidd yn methu dosbarthu carcas
Erthygl 8(1), 8(2)(a), Erthygl 8(3)(a) o'u darllen gydag ail baragraff yr Erthygl honno, Erthygl 8(4)	Gofynion ynghylch marcio carcasau i ddynodi categori a dosbarth y cydffurfiad a'r gorchudd braster
Erthygl 8(5)	Gofynion mewn perthynas â labelu carcas
Erthygl 10(7)	Gwahardd addasu manylebau technegol dulliau graddio awtomataidd awdurdodedig heb gymeradwyaeth Gweinidogion Cymru

	Erthygl 12	Gofynion ynghylch dosbarthu drwy dechnegau graddio awtomataidd
	Erthygl 14(1), (2) a (3)	Gofyniad ynghylch pwyso'r carcass er mwyn hysbysu prisiau'r farchnad
	Erthygl 14(4)	Gofynion ynghylch hysbysu prisiau fesul dosbarth
	Erthygl 17(2) o ran y modd y'i cymhwysir at daliadau atodol am garcasau	Gofynion ynghylch hysbysu unrhyw daliadau atodol
Rheoliad Gweithredu'r Comisiwn	Erthygl 1	Gofynion ynghylch y cyfathrebiad rhagnodedig
	Is-baragraffau un a thri o Erthygl 5(1) a'r Atodiad	Gofynion ynghylch addasiadau i bwysau'r carcass
	Erthygl 7	Gofyniad ynghylch dosbarthiadau ar gyfer cofnodi prisiau marchnad carcasau eidion
	Erthygl 8(1), (3) a (4)	Gofyniad ynghylch cofnodi prisiau'r farchnad

ATODLEN 2 Rheoliadau 2, 15 a 27

Darpariaeth Ewropeaidd: carcasau moch

RHAN 1

<i>(1) Y Rheoliad sy'n cynnwys y ddarpariaeth Ewropeaidd</i>	<i>(2) Y ddarpariaeth</i>	<i>(3) Y cynnwys</i>
Rheoliad (EU) 2013	Erthygl 10 ac Atodiad IV, pwynt B(II)	Gofyniad i ddsbarthu carcasau i un o'r dosbarthiadau penodedig
	Erthygl 10 ac Atodiad IV, pwynt B(III), fel y'i haddaswyd gan Erthyglau 3 a 4 o Benderfyniad y Comisiwn 2004/370/EC yn awdurdodi dulliau ar gyfer graddio carcasau moch yn y Deyrnas Unedig(1)	Gofyniad i gyflwyno carcasau yn y dull penodedig
	Erthygl 10 ac Atodiad IV, pwynt B(IV), is-baragraff 1, ynghyd ag Erthygl 1 o Benderfyniad y Comisiwn 2004/370/EC, ac Atodiad I iddo, yn awdurdodi dulliau ar gyfer graddio carcasau moch yn y Deyrnas Unedig	Gofyniad i raddio carcasau drwy ddulliau a awdurdodir gan y Comisiwn

(1) OJ Rhif L 116, 22.4.2004, t. 32, fel y'i diwygiwyd ddiwethaf gan Benderfyniad y Comisiwn 2006/374/EC (OJ Rhif L 142, 30.5.2006, t. 34).

Rheoliad Dirprwyedig y Comisiwn	Erthygl 6(1)	Gwahardd tynnu braster, cyhyr neu feinwe arall cyn pwyso, graddio a marcio
	Erthygl 7(1)	Gofyniad ynghylch lle ac amser y dosbarthu
	Erthygl 7(3)(b) a 7(4)(a)	Gofynion ynghylch pwyso'r carcass ac addasu'r pwysau
	Erthygl 12	Gofynion ynghylch dosbarthu drwy dechnegau graddio awtomataidd
	Erthygl 14(1), (2) a (3)	Gofyniad ynghylch pwyso'r carcass er mwyn hysbysu prisiau'r farchnad
	Erthygl 14(4)	Gofynion ynghylch hysbysu prisiau fesul dosbarth
	Erthygl 17(2) o ran y modd y'i cymhwysir at daliadau atodol am garcasau Pwynt 2 o Ran A o Atodiad V	Gofynion ynghylch hysbysu unrhyw daliadau atodol Gofynion ynghylch asesu faint o gig heb lawer o fraster sydd mewn carcasau
Rheoliad Gweithredu'r Comisiwn	Erthygl 1	Gofynion ynghylch y cyfathrebiad rhagnodedig
	Erthygl 9	Gofynion ynghylch dosbarthiadau a phwysau er mwyn cofnodi

prisiau
marchnad
carcasau moch

Erthygl 10

Cofnodi
prisiau'r
farchnad

RHAN 2

<i>(1) Y Rheoliad sy'n cynnwys y ddarpariaeth Ewropeaidd</i>	<i>(2) Y ddarpariaeth</i>	<i>(3) Y cynnwys</i>
Rheoliad Dirprwyedig y Comisiwn	Erthygl 8(1), 8(2)(b), Erthygl 8(3)(c) o'u darllen gydag ail baragraff yr Erthygl honno ac Erthygl 8(4)	Gofynion ynghylch marcio carcassau neu eu labelu
	Erthygl 8(5)	Gofynion mewn perthynas â labelu carcass

ATODLEN 3 Rheoliad 11

Cofnodion: carcassau buchol

1. Canlyniadau'r dosbarthu.
2. Rhif cymeradwyo'r lladd-dy.
3. Rhif lladdiad neu rif cigyddu yr anifail y cafwyd y carcass ohono, fel y'i dyrannwyd gan y gweithredwr.
4. Dyddiad y cigyddu.
5. Pwysau cynnes y carcass ynghyd â nodyn o'r canlynol—
 - (a) unrhyw addasiad a wnaed ar gyfer pwysau oer y carcass, a
 - (b) unrhyw gyfernod a gymhwyswyd.
6. Y fanyleb trin a ddefnyddiwyd.
7. Cofnod bod y cyfathrebiad rhagnodedig wedi ei wneud.
8. Enw, llofnod a rhif cyfresol trwydded ddosbarthu'r person a ymgymrodd â'r dosbarthu.

ATODLEN 4 Rheoliad 16

Cofnodion: carcassau moch

- 1.** Canlyniadau'r dosbarthu.
- 2.** Rhif cymeradwyo'r lladd-dy.
- 3.** Rhif lladdiad neu rif cigyddu yr anifail y cafwyd y carcass ohono, fel y'i dyrannwyd gan y gweithredwr.
- 4.** Dyddiad y cigyddu.
- 5.** Pwysau cynnes y carcass, ynghyd â nodyn o'r canlynol—
 - (a) unrhyw addasiad a wnaed ar gyfer y pwysau carcass oer, a
 - (b) unrhyw gyfernod a gymhwyswyd.
- 6.** Y ganran o gig heb lawer o fraster yn y carcass.
- 7.** Dynodiad a oedd y tafod, gwêr yr arenau, yr arenau a'r diaffram yn gysylltiedig neu wedi'u tynnu ymaith.
- 8.** Cofnod bod y cyfathrebiad rhagnodedig wedi ei wneud.
- 9.** Enw a llofnod y person a ymgymerodd â'r dosbarthu.

Explanatory Memorandum to *The Carcase Classification and Price Reporting (Wales) Regulations 2018*

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

Cabinet Secretary/Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of *Carcase Classification and Price Reporting (Wales) Regulations 2018*.

Lesley Griffiths, AM, Cabinet Secretary for Energy, Planning and Rural Affairs:

Date: 23 November 2018

1. Description

These Regulations revoke The Beef and Pig Carcase Classification (Wales) Regulations 2011 and replace them with the Carcase Classification and Price Reporting (Wales) Regulations 2018.

These Regulations update in domestic legislation the arrangements for administering and enforcing carcase classification and price reporting for beef and pigs under Regulation 1308/2013 read with Commission Delegated Regulation (EU) 2017/1182 and Commission Implementing Legislation (EU) 2017/1184.

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

Article 27 of Commission Delegated Regulation 2017/1182 and Article 19 of the Commission Implementing Regulation 2017/1184 requires the Member States to bring into force the necessary legal framework by 11th July 2018. Delays to finalising these Regulations mean this deadline has not been met.

The Welsh Ministers and Secretary of State agreed to align the Welsh and English replacement Regulations to ensure slaughterhouses were subject to the same enforcement regime throughout England and Wales. As the same agency will enforce the regime in England and Wales, the Welsh Ministers and the Secretary of State have sought to bring the replacement Welsh and English Regulations into force at a similar time.

Whilst the Welsh Government has not been in contact with the European Commission in respect of the delay, the risk of infraction is considered to be low. To date there has not been a prosecution relating to the existing domestic regulations and the industry continues to comply with the requirements of the existing Regulations and the proposed Regulations. The Rural Payments Agency, on behalf of the Welsh Ministers, continues to monitor the relevant operators.

Changes made by the Commission Regulations have had minimal impact on the Welsh beef and pig Industry. Those slaughterhouses which previously complied with regulatory requirements continue to comply with the new reporting requirements.

Section 2(2) of the European Communities Act 1972 offers a choice between negative and affirmative procedures. The negative resolution procedure will be used in this case as the discretion of the Welsh Ministers is limited over the content of the Statutory Instrument because it is giving effect to European Union provisions

3. Legislative background

These Regulations are made in exercise of powers contained in section 2(2) of the European Communities Act 1972.

The Welsh Ministers are designated by virtue of Article 3 of the European Communities (Designation) (No. 5) Order (S.I. 2010/2690) for the purposes of making regulations under section 2(2) of the European Communities Act 1972 in relation to Common Agricultural Policy (“CAP”).

The previous EU carcase classification and price reporting measures have been consolidated and modified by Commission Delegated Regulation 2017/1182 and Commission Implementing Regulation 2017/1184 supplementing EU Regulation 1308/2013 establishing a common organisation of the markets in agricultural products.

The Welsh Government needs to administer and enforce carcase classification and price reporting measures to give effect to the Welsh Ministers’ European obligations arising from Commission Delegated Regulation 2017/1182 and Commission Implementing Regulation 2017/1184. The previous classification and enforcement regime was contained in the Beef and Pig Carcase Classification (Wales) Regulations 2011. Those 2011 Regulations are being revoked and replaced to align with the changes to the EU regime.

4. Purpose & intended effect of the legislation

The European Commission conducted a formal review of existing EU rules which mandate the categorisation and classification of animals presented for slaughter against common European standards in order to make it more transparent.

As a result they brought into force Commission Delegated Regulation 2017/1182 and Commission Implementing Regulation 2017/1184 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the Union scales for the classification of beef, pig and sheep carcasses and as regards the reporting of market prices of certain categories of carcasses and live animals.

The previous classification and enforcement regime was contained in the Beef and Pig Carcase Classification (Wales) Regulations 2011. Those Regulations are being revoked and replaced to align with the changes to the EU regime.

Carcase classification is a means of ensuring all livestock producers are paid in a fair and transparent way by consistently dressing, weighing and classifying animals. Price Reporting is a means of collecting data on the market which can be used for policy formulation and for forward planning of livestock producers

The aim of the European Union amendments is improve transparency and

reduce administrative and regulatory burden. The changes do not represent significant differences from current practice however the key changes to the 2011 Regulations will include:

- Increased thresholds for beef (bovines aged 8 months and over) from 75 to 150 per week and pig abattoirs from 200 to 500 per week (both on an annual average basis), which mandate the requirement to classify carcasses. Abattoirs slaughtering fewer than these amounts are no longer subject to the requirements of the Regulations.
- Requirement for pig abattoirs to provide details of classification results to the suppliers of animals sent for slaughter.
- Requirement for abattoirs slaughtering over the new thresholds (500 pigs per week) to supply details of deadweight prices for additional weight categories of pigs to AHDB, who will then collate and send a weekly return to the European Commission. The categories are 60kg to <120kg (codes S and E) and 120kg to <180kg (code R).
- Additional deadweight category, U4 to be price reported for bovine carcasses of other female animals aged from 12 months

Officials advise the changes to policy will have limited impact on the Welsh industry as it stands currently.

The Welsh pig industry is relatively small, and **no** pig abattoirs in Wales would currently meet the throughput thresholds to be affected by the new reporting requirements. For beef, those abattoirs over the existing weekly threshold of 75 will also be over the new proposed threshold of 150 bovines; therefore, there will be no change to the number of abattoirs reporting within the beef sector. Existing suppliers will only need to ensure the U4 deadweight category is included in bovine classification.

The Rural Payments Agency (RPA) will continue to undertake enforcement throughout England and Wales (acting on behalf of the Welsh Ministers in relation to the latter), as it does under the current arrangements. This approach any avoids any risks that would otherwise arise as a result of cross border movement of livestock and different reporting and throughput thresholds in England and Wales (which could in fact threaten the viability and development of the slaughter / processing sector in Wales).

5. Consultation

A formal consultation has not been undertaken.

Stakeholder engagement was undertaken by way of targeted correspondence. This was deemed appropriate because the SI is in essence a technical update of classification and price reporting requirements in an existing SI. The letter was posted to key stakeholder organisations on the 27 June 2018. No

responses or queries were received from any Welsh slaughter houses as a result of this correspondence. No correspondence or feedback been received formally outside this communication chain.

6. Regulatory Impact Assessment (RIA)

The Welsh Ministers code of practice on the carrying out of Regulatory Impact Assessment was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment because the proposed legislative changes impose no costs or savings to the public, private or voluntary sector.

Eitem 4.2

SL(5)288 - Rheoliadau Diogelu'r Amgylchedd (Diwygiadau Amrywiol) (Cymru a Lloegr) 2018

Cefndir a Diben

Mae'r rheoliadau cyfansawdd hyn yn gwneud nifer o ddiwygiadau i ddau ddeddfiad, Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016 ("Rheoliadau Trwyddedu Amgylcheddol") a Deddf Diogelu'r Amgylchedd 1990 ("Deddf 1990"). Mae diwygiadau i Ddeddf 1990 yn dod i rym mewn perthynas â Lloegr yn unig.

Mae'r offeryn hwn yn diwygio'r Rheoliadau Trwyddedu Amgylcheddol er mwyn gwella cymhwysedd gweithredwyr mewn safleoedd gwastraff a ganiateir trwy gyflwyno gofynion ar gyfer systemau rheoli ysgrifenedig a thrwy ei gwneud yn ofynnol i'r gweithredwr hysbysu'r rheoleiddiwr ei fod yn cydymffurfio â chynllun cymhwysedd technegol.

Y weithdrefn

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(ix): Gwnaed y Rheoliadau yn Saesneg yn unig. Gwnaed y rheoliadau ar sail Cymru a Lloegr.

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

Mae rhannau o'r rheoliadau hyn yn rhan o "ddeddfwriaeth ddomestig sy'n deillio o'r UE" o dan adran 2 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 ("y Ddeddf"), felly bydd y Rheoliadau hyn yn cael eu cadw fel cyfraith ddomestig a byddant yn parhau i fod mewn grym yng Nghymru ar ôl y diwrnod ymadael. Mae'r Ddeddf yn rhoi pŵer i Weinidogion Cymru addasu'r Rheoliadau hyn er mwyn ymdrin â diffygion sy'n deillio o ymadael â'r UE, yn amodol ar rai cyfyngiadau.

Ymateb y Llywodraeth

Nid oes angen ymateb y llywodraeth.

Mae'r Memorandwm Esboniadol yn dweud: "This instrument makes amendments to existing enactments and is being made on a composite basis by the Welsh Ministers (in relation to Wales) and by the Secretary of State (in relation to England). As this composite instrument is subject to scrutiny by the



National Assembly for Wales and by the UK Parliament, it is not considered reasonably practicable for this instrument to be made or laid bilingually."

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Tachwedd 2018



STATUTORY INSTRUMENTS

2018 No. 1227

**ENVIRONMENTAL PROTECTION, ENGLAND AND
WALES**

**The Environmental Protection (Miscellaneous Amendments)
(England and Wales) Regulations 2018**

Made - - - - *22nd November 2018*

Laid before Parliament *26th November 2018*

Laid before the National Assembly for Wales *22nd November 2018*

Coming into force in accordance with regulation 2

The Secretary of State makes these Regulations in relation to the transfer of household waste in England in exercise of the powers conferred by section 2(2) of the European Communities Act 1972^(a).

The Secretary of State and the Welsh Ministers make these Regulations—

- (a) in relation to the regulation of waste operations and radioactive substances activities, in exercise of the powers conferred by sections 2 and 7(9) of, and Schedule 1 to, the Pollution Prevention and Control Act 1999^(b); and
- (b) in relation to the regulation of flood risk activities, in exercise of the powers conferred by section 61(1) of, and paragraphs 3 and 14 of Schedule 8 to, the Water Act 2014^(c).

The Secretary of State has been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the environment^(d).

In accordance with section 2(4) of the Pollution Prevention and Control Act 1999 and section 61(5) of the Water Act 2014, the Secretary of State and the Welsh Ministers have consulted—

- (a) the Environment Agency;
- (b) the Natural Resources Body for Wales;

(a) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).

(b) 1999 c. 24; section 2 was amended by section 62(13) of the Water Act 2014 (c. 21) and by S.I. 2013/755 (W.90). Schedule 1 has been amended as follows: paragraphs 3 and 20 were amended by S.I. 2011/1043; paragraph 9A was inserted by, and paragraph 24 amended by, S.I. 2005/925 and paragraph 9A was further amended by S.I. 2012/2788; paragraph 21A was inserted by section 38 of the Waste and Emissions Trading Act 2003 (c. 33), and paragraph 25 was amended by section 105(1) of the Clean Neighbourhoods and Environment Act 2005 (c. 16) and by S.I. 2015/664. Functions of the Secretary of State, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by virtue of article 3(1) of the National Assembly for Wales (Transfer of Functions) Order 2005 (S.I. 2005/1958). Functions of the National Assembly for Wales were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(c) 2014 c. 21, to which there are amendments not relevant to these Regulations.

(d) S.I. 2008/301.

- (c) such bodies or persons appearing to them to be representative of the interests of local government, industry, agriculture and small business as they consider appropriate; and
- (d) such other bodies or persons as they consider appropriate.

PART 1

Introductory

Citation

1. These Regulations may be cited as the Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018.

Commencement

- 2.—(1) These Regulations (except regulation 4(2) and (5)) come into force on 7th January 2019.
(2) Regulation 4(2) and (5) comes into force on 7th April 2019.

PART 2

Amendments relating to household waste transfer: penalty notices in England

Amendments to EPA 1990

3.—(1) Part 2 of the Environmental Protection Act 1990 (waste on land)(a) is amended as follows.

- (2) After section 34 (duty of care etc. as respects waste)(b) insert—

“Fixed penalty notices: offences under section 34(6) relating to section 34(2A): England

34ZA.—(1) This section applies where it appears to an enforcement authority in England that a person has failed to comply with the duty relating to the transfer of household waste in section 34(2A) in England.

(2) The authority may give to that person a notice offering the opportunity of discharging any liability to conviction for an offence under section 34(6) by payment of a fixed penalty.

(3) An authority may not give a person a notice under subsection (2) if such a notice has already been given to that person (whether by the same or another authority) in respect of the same offence.

(4) Where a waste collection authority (A) gives a notice to a person under subsection (2), A must, at the time of giving the notice—

- (a) give the Environment Agency a copy of the notice; and
- (b) where it appears to A that the failure to comply with the duty in section 34(2A) took place in the area of another waste collection authority (B), give B a copy of the notice.

(5) Where the Environment Agency gives a notice to a person under subsection (2), the Agency must, at the time of giving the notice, give a copy of the notice to the waste

(a) 1990 c.43.

(b) Section 34 was amended by S.I. 2005/2900, 2006/123 (W. 16), 2007/3538, 2011/988. There are other amending instruments but none is relevant.

collection authority in whose area the failure to comply with the duty in section 34(2A) took place.

(6) Where a person is given a notice under subsection (2) in respect of an offence—

- (a) no proceedings may be instituted for that offence before the end of the period of 14 days following the date of the notice; and
- (b) the person may not be convicted of the offence if the fixed penalty is paid before the end of that period.

(7) The fixed penalty payable to an enforcement authority under this section is—

- (a) the amount specified by the authority in respect of the offence; or
- (b) if no amount is specified by the authority, £200.

(8) The amount specified by an authority in respect of the offence under subsection (7)(a) must not be less than £150 or more than £400.

(9) The enforcement authority to which a fixed penalty is payable under this section may make provision for treating it as having been paid if a lesser amount of not less than £120 is paid within the period of 10 days following the date on which notice is given under this section.

(10) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(11) A notice under this section must also—

- (a) state the period during which, by virtue of subsection (6)(a), proceedings will not be instituted for the offence under section 34(6);
- (b) state the period during which, by virtue of subsection (6)(b), payment of the fixed penalty will discharge any liability to conviction for the offence;
- (c) state the amount of the fixed penalty;
- (d) state any lesser amount payment of which, by virtue of subsection (9), is treated as payment of the fixed penalty, and the period for payment of the lesser amount;
- (e) state the permissible methods of payment;
- (f) explain that—
 - (i) the notice contains an offer to discharge liability to conviction for the offence by payment of a fixed penalty and that the person is not required to accept that offer; and
 - (ii) the person is entitled to make representations to the authority about the allegations contained in the notice;
- (g) state the address to which the person may send any representations;
- (h) explain that, by virtue of subsection (3), an authority may not give a person a notice under this section if such a notice has already been given to that person (whether by the same or another authority) in respect of the same offence;
- (i) state which other enforcement authorities the authority has sent a copy of the notice to in accordance with subsections (4) and (5).

(12) An enforcement authority may authorise in writing a person (an “authorised officer”) to give a notice under this section on its behalf.

(13) An authorised officer may require an occupier of domestic property to give the occupier’s name and address if the officer proposes to give the occupier a fixed penalty notice.

(14) A person commits an offence if the person—

- (a) fails to give a name or address when required to do so under subsection (13), or
- (b) gives a false or inaccurate name or address in response to a requirement under that subsection.

(15) A person guilty of an offence under subsection (14) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(16) In any proceedings a certificate which—

- (a) purports to be signed on behalf of the chief finance officer of the enforcement authority; and
- (b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(17) In this section—

“chief finance officer”, in relation to an enforcement authority, means the person having responsibility for the financial affairs of the authority;

“enforcement authority in England” means the Environment Agency or a waste collection authority in England.”.

(3) In section 73A (use of fixed penalty receipts)(a)—

- (a) in subsection (1), after “section” insert “34ZA or”;
- (b) in subsection (2), after “33ZB,” insert “34ZA,”.

PART 3

Amendments relating to environmental permitting

Amendments to EPR 2016

4.—(1) The Environmental Permitting (England and Wales) Regulations 2016(b) are amended as follows.

(2) In regulation 38 (offences), after paragraph (2) insert—

“(2A) But it is not an offence for a person to fail to comply with the environmental permit conditions in Part 3 of Schedule 9 (waste operations: management and technical competence conditions).”.

(3) In Schedule 3 (exempt facilities and waste operations to which section 33(1)(a) of the 1990 Act does not apply: descriptions and conditions), in Part 4, in paragraph 20—

- (a) for the heading, substitute “Notches”;
- (b) in sub-paragraph (1), omit “fish passage”.

(4) In Schedule 5 (environmental permits), in Part 1, in paragraph 10(2)(c), for “(b) and (c)” substitute “(a) and (b)”.

(5) In Schedule 9 (waste operations and materials facilities), after Part 2 insert—

“PART 3

Waste operations: management and technical competence conditions

Written management system conditions

1.—(1) An environmental permit which meets each of the following criteria is subject to conditions A and B—

- (a) the permit was granted before 6th April 2008;

(a) Section 73A was inserted by section 52 of the Clean Neighbourhoods and Environment Act 2005 (c. 16).

(b) S.I. 2016/1154, amended by S.I. 2018/428. There are other amending instruments but none is relevant.

- (b) the permit does not authorise a waste operation carried on at an installation or by means of a Part B mobile plant; and
- (c) the permit does not, immediately before 7th April 2019, contain a condition referring to a management system recorded in writing relating to risks relating to pollution.

(2) Condition A is that the operator must manage and operate the waste operation in accordance with a system (a “written management system”), described in a document or documents, which identifies and minimises the risks of pollution arising from the waste operation, including (but not limited to) those—

- (a) arising from operations (including maintenance);
- (b) arising from an accident or other incident;
- (c) arising from a failure to comply with or from a contravention of the environmental permit in question;
- (d) identified following a complaint; or
- (e) arising from the closure of the operation.

(3) Condition B is that the operator must—

- (a) from time to time, review the written management system and keep it up to date; and
- (b) keep a written record of—
 - (i) activities carried out in accordance with the written management system; and
 - (ii) any review or update under paragraph (a).

(4) If the regulator varies an environmental permit which meets the criteria in paragraph (1) so as to include a condition referring to a management system recorded in writing relating to risks relating to pollution, this paragraph ceases to apply to that environmental permit.

Technical competence: notification condition

2.—(1) An environmental permit is subject to the condition in sub-paragraph (6) if it meets one or both of the following criteria.

(2) The first criterion is that the permit authorises a waste operation which is not carried on at an installation or by means of a Part B mobile plant.

(3) The second criterion is that the permit authorises a specified waste management activity.

(4) Each of the following activities is a specified waste management activity—

- (a) the disposal of waste in a landfill falling within Section 5.2 of Part 2 of Schedule 1;
- (b) the disposal of hazardous waste falling within Section 5.3 of Part 2 of Schedule 1;
- (c) the recovery of hazardous waste falling within Part A(1)(a)(i), (ii), (iii), (iv), (v), (viii) or (x) of Section 5.3 of Part 2 of Schedule 1;
- (d) the disposal of non-hazardous waste falling within Part A(1)(a) of Section 5.4 of Part 2 of Schedule 1;
- (e) the recovery or a mix of recovery and disposal of non-hazardous waste falling within of Part A(1)(b) of Section 5.4 of Part 2 of Schedule 1;
- (f) the temporary or underground storage of hazardous waste falling within Section 5.6 of Part 2 of Schedule 1.

(5) But an activity falling within sub-paragraph (4)(b) to (f) is not a specified waste management activity if that activity—

- (a) is carried on at the same installation as a Part A(1) activity not mentioned in sub-paragraph (4); and

- (b) is not the activity which constitutes the primary purpose for operating the installation.
- (6) The condition is that the operator must periodically give to the regulator—
 - (a) information demonstrating the operator’s compliance with one of the following standards during the relevant period; or
 - (b) if the operator did not comply with one of the following standards during the relevant period, information to that effect.
- (7) The first standard is the CIWM/WAMITAB Operator Competence Scheme, Version 9, September 2018, published by WAMITAB(a).
- (8) The second standard is the Competence Management System: Requirements, Version 4, April 2015, published by Energy and Utility Skills(b).
- (9) In sub-paragraph (6)—
 - (a) the reference to giving information periodically is a reference to giving information in each quarterly or annual return (as the case may be) for giving information about waste acceptance or removal in accordance with the environmental permit in question;
 - (b) “relevant period” means—
 - (i) in relation to the first period, the period beginning with 7th April 2019 and ending with the end of the period to which the first return relates;
 - (ii) in relation to each subsequent period, the quarter or year (as the case may be) to which the return relates.
- (10) The regulator may amend the form for giving information about waste acceptance or removal in accordance with an environmental permit so as to enable information to be given in accordance with this paragraph.”
- (6) In Schedule 23 (radioactive substances activities), in Part 4, in paragraph 7—
 - (a) after sub-paragraph (1) insert—

“(1A) Paragraph (1)(d) does not apply in relation to waste that is a sealed source.”;
 - (b) for sub-paragraph (2) substitute—

“(2) In this paragraph—
“radioactive waste adviser” means an individual, or group of individuals, with the knowledge, training and experience needed to give radioactive waste management and environmental radiation protection advice in relation to radioactive waste in order to ensure the effective protection of members of the public, and whose competence in that respect is recognised by the regulator;
“sealed source” has the same meaning as in the Basic Safety Standards Directive(c).”
- (7) In Schedule 25 (flood risk activities and excluded flood risk activities), in Part 2, in paragraph 5—
 - (a) for the heading, substitute “Ladders, scaffold towers and other similar apparatus”;

(a) A copy of the document can be seen at <https://wamitab.org.uk/wp-content/uploads/2018/09/CIWM-WAMITAB-Operator-Competence-Scheme-Version-9-Final.pdf> or obtained by writing to WAMITAB, Peterbridge House, 3 The Lakes, Northampton, NN4 7HETBC.

(b) A copy of the document can be seen at <https://www.euskills.co.uk/wp-content/uploads/2018/11/Competence-Management-System-Requirements-Version-4-April-2015.pdf> or obtained by writing to Energy and Utility Skills, Friars Gate, 1011 Stratford Road, Shirley, Solihull, B90 4BN.

(c) Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation, and repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom. OJ No L 13, 17.01.2014, p. 1.

- (b) in sub-paragraph (1), for “and scaffold towers” substitute “, scaffold towers and other similar apparatus used for access, maintenance or repair”.

22nd November 2018

Thérèse Coffey
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

22nd November 2018

Hannah Blythyn
Minister for Environment, under authority of the Cabinet Secretary for
Energy, Planning and Rural Affairs, one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Environmental Protection Act 1990 (c. 43) and the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154).

Part 2 amends Part 2 of the Environmental Protection Act 1990 by inserting provisions conferring power on certain authorities in England to give notices offering a person the opportunity of discharging any liability to conviction for the offence of failing to comply with section 34(2A) of that Act (duty to take measures to secure that transfer of household waste is only to certain authorised persons).

Part 3 amends various provisions of the Environmental Permitting (England and Wales) Regulations 2016. In summary—

- (a) regulation 4(2) and (5) contains amendments relating to new conditions for environmental permits authorising certain waste operations;
- (b) regulation 4(3) and (7) contains amendments relating to flood risk activities;
- (c) regulation 4(6) contains an amendment relating to radioactive substances activities.

A full impact assessment of the effect that regulation 4(2) and (5) will have on the costs of business, the voluntary sector and the public sector is available from Waste Regulation and Crime, Department for Environment, Food and Rural Affairs, Seacole Building, 2 Marsham Street, London, SW1P 4DF or at www.legislation.gov.uk.

A full impact assessment has not been produced for the remainder of this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen in relation to the remainder of this instrument.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment in relation to Wales has been prepared as to the likely costs and benefits of complying with regulations 4(2) and (5) of these Regulations. A copy is available from Waste & Resource Efficiency Division of the Economy, Skills and Natural Resource Group, Welsh Government, Cathays Park, Cardiff, CF10 3NQ or at www.assembly.wales. It was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with the remainder of these Regulations.

Explanatory Memorandum to The Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018

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 Environmental Protection (Miscellaneous Amendments) (England and Wales) Regulations 2018. I am satisfied that the benefits justify the likely costs.

Hannah Blythyn AM
Minister for Environment

26 November 2018

PART 1

1. Description

This Statutory Instrument make a number of amendments to two enactments, the Environmental Permitting (England and Wales) Regulations 2016 (“EPR”) and the Environmental Protection Act 1990 (“the 1990 Act”). Amendments to the 1990 Act take effect in relation to England only.

This instrument amends the EPR to improve operator competence at permitted waste sites by introducing requirements for written management systems and requiring the operator to notify the regulator of their compliance with a technical competence scheme. The EPRs are amended to require all:

- regulated facilities which operate under a permit granted before 6 April 2008 that undertake waste operations (excluding at an installation or by means of a Part B mobile plant) to be managed and operated in accordance with a written management system which identifies and minimises the risks of pollution arising from the waste operation;
- waste operators to provide to the regulator information relating to their Technical Competence Management (TCM) arrangements at their waste site that demonstrates compliance (or not) with one of two Government approved schemes i) the CIWM/WAMITAB Operator Competence Scheme¹, or ii) the EU Skills Competence Management System².

To allow the pre-2008 permit holders time to produce and implement a written management system or to modify an existing one so as to comply with the new requirement and to allow the regulator time to ensure internal procedures are in place the operator competence requirements will not be commenced until 7 April 2019.

This instrument also fixes an unintended consequence resulting from amendments to the EPR made by the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018, it removes the need to consult a Radioactive Waste Advisor (RWA) on public protection matters in relation to any aspect of radioactive substances activities that concern radioactive waste that is a sealed source.

This instrument also makes changes to one of the exempt flood risk activities and to one of the excluded flood risk activities in the EPR.

This instrument amends the 1990 Act introducing a power for the English waste authorities to issue a fixed penalty notice for failure to comply (in England) with the household waste duty of care, which is set out in Section 34(2A) of the 1990 Act.

¹ The CIWM/WAMITAB Operator Competence Scheme was approved by the Secretary of State and the Welsh Government on 22nd December 2008. Information about the Scheme and compliance can be seen at wamitab.org.uk.

² The Competence Management System was approved by the Secretary of State, the Welsh Government and the Environment Agency on 8th July 2009. Information about the Scheme and compliance can be seen at euskills.co.uk.

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

This instrument makes amendments to existing enactments and is being made on a composite basis by the Welsh Ministers (in relation to Wales) and by the Secretary of State (in relation to England). As this composite instrument is subject to scrutiny by the National Assembly for Wales and by the UK Parliament, it is not considered reasonably practicable for this instrument to be made or laid bilingually.

There is no difference in policy on these proposals between England and Wales apart from the provision for fixed penalty notices for failing to comply with the duty relating to the transfer of household waste, which is made for England only.

3. Legislative background

The powers to make to make regulations to amend the Environmental Permitting (England and Wales) Regulations 2016 are:

- in relation to the regulation of waste and radioactive substances activities, section 2 of, and Schedule 1 to, the Pollution Prevention and Control Act 1999 (“the 1999 Act”); and
- in relation to flood risk activities, section 61(1) of, and paragraphs 3 and 14 of Schedule 8 to, the Water Act 2014.

Functions under section 2 of the 1999 Act were, in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 2005 (S.I. 2005/1958). Those functions are now exercisable by the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

The Secretary of State is also using the power in section 2(2) of the European Communities Act 1972 to make provision in relation to powers of English waste authorities to issue fixed penalty notices for failures to comply with the duty of care relating to household waste placed on occupiers of domestic property by section 34(2A) of the Environmental Protection Act 1990.

This Instrument follows the negative procedure.

4. Purpose and intended effect of the legislation (Wales only)

Environmental permitting - waste operations – operator competence.

Waste sites operating under an Environmental Permit play a critical role in ensuring wastes are managed safely and under controlled conditions. Sites that

are not operated in accordance with the conditions of their permit, can cause serious pollution to the natural environment and nuisance to nearby communities in the form of odour, litter, dust, vermin, fly infestations and fires.

The overall policy objective is to improve operator compliance with the conditions of permits to reduce their impact on the environment and local communities and to reduce the potential for sites to be abandoned.

These Regulations focus on two elements of operator competence: 1) written management systems and 2) technical competence.

1. Written Management System Condition

The Regulations seek to improve operator competence at permitted wastes sites by inserting into Schedule 9 (waste operations and materials facilities) of the EPR a requirement for certain permitted sites to produce and review a written management system where their permit does not already contain a condition for them to do so. Written management systems are an important and effective means of ensuring waste is managed without endangering human health or the environment and minimising the risk of fire. The majority of permits issued or varied since April 2008 already contain a condition which requires a written management system. However, it is not a legal requirement for those operations whose permit does not contain the relevant condition before this date. The regulators are aware of approximately 2,000 sites in England and Wales potentially operating without a written management system in place, which can be a significant contributory factor in poor performance.

A well-written and implemented written management system identifies how day-to-day activities need to be carried out in order to minimise the risk of pollution and impact on the local community. These regulations will increase levels of compliance at the specified permitted sites by requiring those permitted waste operators to manage and operate in accordance with a written management system.

2. Technical Competence Notification

An appropriate standard of technical competence across the waste sector is essential to ensure that waste sites are being operated in a way that does not result in poor performance. There is, however, potentially a gap in the level of technical competence in the waste sector. There is some evidence that TCM may be providing cover at many waste sites and not spending the appropriate length of time at a site. Whilst the regulators are clear that waste sites need to demonstrate technical competence, currently there is no clear express requirement in the EPR that a waste site has to demonstrate their technical competence through a scheme approved by government.

Permits authorising waste operations (subject to certain exceptions) require a technically competent person to direct activities at the site and for that person to attend the site for a minimum period of time each week. The technically competent person can demonstrate their competence by satisfying one of the

accepted industry schemes approved by Government. There are currently two approved schemes; the CIWM/WAMITAB scheme of individual operator competence³ and the ESA/EU Skills scheme of corporate competence⁴.

This instrument will require operators of certain specified permitted waste operations to periodically give to the regulator information demonstrating compliance with one of the relevant schemes. If an operator does not comply with either scheme, they must also inform the regulator of that in their waste return.

The aim of this policy is to ensure that all relevant permitted waste operators demonstrate sufficient levels of technical competence by requiring operators to provide Natural Resources Wales (NRW) with information demonstrating compliance (or not) with one of the relevant schemes, including information as to the TCM arrangements at their waste site. This will enable NRW to build up a national list of TCMs against waste permit data and cross-reference that against data provided by WAMITAB and EU Skills. This will also enable NRW and the scheme operators to identify which sites do not have sufficient technical competence, and where TCMs are spreading themselves too thinly by providing their services at multiple sites.

Environmental permitting - Waste Radioactive Sealed Sources

The EPR set out an environmental permitting and compliance regime that applies to various activities and industries. Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations (EPR) 2018 amended the EPR to transpose the new requirements contained in the Basic Safety Standards Directive 2013/59/Euratom. However, these amendments caused an unintended consequence by requiring permit holders handling waste radioactive sealed sources to consult with a Radioactive Waste Adviser (RWA) on certain matters relating to protecting members of the public from exposure to ionising radiation. This is not what was intended or consulted upon, nor is it a requirement under the Basic Safety Standards Directive (2013/59/Euratom).

As there are no discharges to the environment from sealed sources there is no public exposure, and it is considered disproportionate and of no benefit to the environment in most circumstances to require operators handling waste sealed sources to consult an RWA on matters relating to public protection. The Ionising Radiations Regulations 2017, made under the Health and Safety at Work etc. Act 1974, require all operators to consult radiation protection advisers, so the requirements of the Basic Safety Standards Directive are satisfied.

This instrument therefore remedies this unintended consequence by removing the need to consult an RWA on public protection matters where the radioactive substances activities involve waste that is a sealed source.

³ Chartered Institution of Wastes Management / Waste Management Industry Training and Advisory Board

⁴ Environmental Services Association / Energy and Utilities Skills

Environmental permitting - Flood Risk Activities

In relation to flood risk activities there are changes one of the exempt flood risk activities, and one of the excluded flood risk activities -to make the exemption and exclusion clearer and less bureaucratic. The changes include the following:-

- Schedule 3, Part 4, paragraph 20 provides an exemption for construction of fish passage notches on an existing impoundment. This instrument removes the reference to fish passage so as to allow the exemption to cover notches more generally.
- Schedule 25, Part 2, Section 2, paragraph 5 provides an exclusion for erection and use of ladders and scaffold towers. This instrument broadens the exclusion to extend to “other similar apparatus”.

5. Consultation

Waste Operator Competence

The proposed amendments to the EPR 2016 were part of a range of proposals in a 12-week public consultation held jointly with DEFRA between the 15 January 2018 to 26 March 2018⁵.

There were 275 responses to the consultation, 42 of the responses were from Wales. The responses were broken down as follows: 26% from private businesses, 21% from trade associations, 12% from local authorities, 12% from individuals, 12% from other public bodies, 10% from NGOs and 7% from professional bodies.

The responses on improving operator competence show overall support for strengthening the regulators assessment of waste operators competence including considering their past performance, management systems, technical competence and financial provision.

18 people answered questions on the management system requirement and all agreed it would be beneficial for all waste permit holders to operate in accordance with a written management system.

20 people answered the questions on technical competence. 95% agreed that an explicit requirement in the EPR for permitted waste sites to demonstrate technical competence through a scheme approved by government would address the current gap in technical competence.

A summary of the consultation responses is available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721972/waste-crime-consult-sum-resp.pdf

⁵ <https://beta.gov.wales/reducing-crime-sites-handling-waste-and-introducing-fixed-penalties-waste-duty-care>

Waste Radioactive Sealed Sources

No further consultation has been undertaken as the amendments correct unintentional provision made by the Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations (EPR) 2018.

Flood Risk Activities

In respect of the changes relating to flood risk activities, a joint consultation by Defra and the Welsh Government on amending some of the exemptions and exclusions was published on 11 April 2018 and ended on 20 June 2018. 14 respondents submitted comments. The majority of respondents supported the proposed changes. A summary and response to the consultation can be seen at <https://www.gov.uk/government/consultations/environmental-permitting-amending-flood-risk-exclusions-and-exemptions>

PART 2 – REGULATORY IMPACT ASSESSMENT

Strengthening the Regulators Assessment and Enforcement of Operator Competence in the Waste Sector.

6. Options

The consultation to strengthen the assessment and enforcement of operator competence considered three options, (i) do nothing, (ii) improve four elements of operator competence including, assessing an operator's past performance, operator's financial competence, requiring written management systems and technical competent management, and (iii) financial provision for all permitted waste sites.

This instrument focusses on two elements of option 2, i.e. written management systems and TCM. Further work is being undertaken on the remaining elements. We intend to consult further on financial provision options and to look at amending Government guidance to strengthen the regulators assessment of past performance. Options 1 and 2 are covered below.

Option 1: 'Do nothing' will not address the impacts to the natural environment and local communities as there will be no action taken from government.

Option 2: 'Improving operator competence' provides the best value for money for the taxpayer, whilst achieving the policy aims. The majority of respondents to the consultation (80%) favoured this option.

The two main groups that are impacted by the costs are waste site operators and regulators (Natural Resources Wales and the Environment Agency in England).

Option 1: Do Nothing

The first option is for government not to intervene in the waste sector to improve operator competence.

Description of each element

Written Management Systems — no change to requirements for operators to produce written management systems or to how the regulators enforce these management systems. All permits issued after 2008, and all pre-2008 permits that are varied after 2008, will have a permit condition for a management system. Without intervention it will take approximately 20 years for all remaining UK pre-2008 permits to come up for variation to enable a written management system requirement to be included in these permits.

Technical Competent Management — no change how the regulators enforce TCM. As with written management systems, all permits issued after 2008 permits and all pre-2008 permits that are varied after 2008 will have a permit condition requiring technical competence. However, it will take approximately

20 years for remaining pre-2008 permits to come up for variation and a technical competency requirement to be included in these permits.

Option 2: Improving operator competence

The second option is improving operator competence which would involve amending the EPR. The mechanism for amending written management systems and TCM is outlined below. The majority of respondents to the consultation agreed that guidance and legislation should be amended to achieve the policy objectives of improving operator competence. In this option, the costs for each of the elements have been set out separately, however the benefits of each element have been combined to show the total impact of the reduction in the number of poor performing sites.

Options for each element

Technically Competent Management - amend EPR legislation to strengthen the regulators' assessment and enforcement of technical competence by enabling the regulators to require operators to inform them who the TCM is at their waste site.

Written Management Systems - amend EPR legislation to strengthen the regulator's assessment and enforcement of management systems by including a requirement for all permitted waste sites to have a written management system.

7. Costs and benefits

Option 1

Costs

There are no costs from this option.

Benefits

There are no benefits from this option.

Although the Environmental Services Association suggests that the level of waste crime may be increasing, in the absence of conclusive proof of such a trend, for this analysis the conservative working assumption was adopted that the cost to the regulators and society will remain the same over the next 10 years.

Option 2

Management Systems

Costs to waste site operators

There will be a transitional cost to a proportion of waste site operators to develop a written management system or amend their current working plan to comply with the modern format. From information supplied by the regulators we estimate that 2,602 waste operators in England and Wales do not currently have any system in place. Of the 543 waste facilities with permits in Wales at least 350 have a condition in the Permit requiring a Written Management System leaving 193 permits that will need a written management system or need to modify one.

From discussions with the regulators and waste management consultants we have estimated that the average cost of revising a working plan so it complies with the modern written management system condition is £1,000 and the cost of producing a new written management system is £3,000. Based on estimates from the regulators, we assume that half of the target population has a management plan that needs to be revised, and that the other half will need an entirely new management plan. Based on the figures of 193 facilities in Wales without a modern management system, the estimated cost is £386,000 $((193*0.5*3000)+(193*0.5*1000))$. This is a transitional cost which will occur in year 1.

There will also be an ongoing cost to maintain written management systems. Only the cost of revising the written management system is attributable as any implementation costs are attributable to the operator choosing to amend their operations. Most updates will be minor and only significant change would necessitate major rewriting of the management system. The regulator estimates that such updates would take no more than 2 hours of a TCM's time per year, and we assume that 5% of the 193 operators will revise their plans every year based on the regulators experience of existing industry practice. Based on a TCM average annual salary of £30,000 to £65,000 per annum (according to National Career Service data) an hourly salary is estimated to range from £14-£31 giving an ongoing cost of £135 - £299. Where an operator already has an existing working plan this will already be maintained and so the additional cost does not arise.

Costs to regulators

The cost of checking management systems is already accounted for in the annual subsistence fee paid by a site operator to NRW for regulation of their site. A small additional workload may result in permit officers having to spend more time checking operations against the management system. This is estimated as an opportunity cost of their time that could have been spent on other activities. The regulator advises a permit officer (£90/hr) will spend an extra 15 minutes per application to assess the additional information, we estimate an opportunity cost in year 1 of £4,343 (from processing 193 applications), and an ongoing cost of £217 to process the renewals (5% of the 193 operators every year).

Technical Competence

Costs to waste site operators

There will be a minimal cost on operators to inform regulators who the TCM is at a waste site. The regulators will likely request this information through an additional field on the quarterly waste returns. It should not increase the time it takes for an operator to complete the form, as the operator already completes a waste return on a regular basis.

Costs to regulators

There will be a minimal cost to the regulator to include a TCM name field in the annual waste return and to communicate the changes and ensure their internal procedures are in place to manage the change.

Benefits

Option 2 would result in a reduction in the number of poor performing waste sites which fall into the lower bands of the regulators Operator Risk Appraisal system⁶. The management systems and technical competence proposals are expected to lead to a 20% reduction of permits in categories D, E or F (poorest performing sites) status, down from 40 to 32. The Environment Agency National Permitting Service recently audited 5 permits that fell into D,E,F status within one year of being issued. 1 in 5 (20%) had poor compliance because of insufficient management systems. We recognise that this is a small sample, however we are confident that this is a realistic representation, based on this we assume that policy approach will decrease the number of D,E,F sites by 20% (8) across Wales.

Benefits to society

The benefits to society have been calculated as the benefits per tonnes of waste that will no longer be kept at poor performing sites. From discussions with the regulators we estimated that approximately 7,500 - 10,000 tonnes of waste is kept at a poor performing (category D,E,F) site. This estimate is based on the mean volume of tonnes at a D,E,F site at a specific point in time.

Reducing D,E,F sites by 8 per year, due to site management systems and technical competence, will result in less waste (between 60,000 and 80,000 tonnes) being handled by non-compliant operators.

The latest data from Ricardo AEA's Technical Report on the Waste Crime Intervention and Evaluation Project⁷ estimates the benefits of avoided ecological / environment damage by illegal waste sites are £1.86 - £1.88 per tonne. In terms of the consequences in environmental pollution and disamenity effects, the externalities at an illegal waste site and non-complaint permitted sites are not very dissimilar.

Table 1 Externality Costs

⁶ Natural Resource Wales Operational Risk Appraisal (Opra) assessment categorises all permitted waste sites into bands from A to F. These bands are based on site performance and compliance levels in the previous year. In this categorisation Bands A, B and C constitute well run sites, which are compliant with the environmental permitting regulations. Bands D, E and F are considered poor performers and are not compliant with the regulations or the regulators' enforcement efforts.

⁷https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/662841/Waste_crime_interventions_and_evaluation_-_report.pdf

Estimates £/tonne	Low	High	Central
Environmental	£1.86	£1.88	£1.87
Disamenity	£6.02	£6.18	£6.10
Total	£7.88	£8.06	£7.97

Taking these estimated costs and multiplying by the estimated central (average) tonnage of waste from the 8 fewer D,E,F sites, the central estimate of the annual cost of non compliance by site operators is approximately £560,000 (the range is £470,000 to £640,000). Since the ongoing costs to the regulator, (as identified above), are minimal, the annual costs will remain roughly the same. These represent the cost savings to society under Option 2 and hence are counted as being among its benefits.

Benefits to the regulators of dealing with fewer incidents

The benefits to the regulators of dealing with fewer incidents have been calculated on a site basis. The Environment Agency's pollution incidents 2015 evidence summary⁸ shows that 145 incidents were caused by waste sites. 72% (104) of these were caused by D,E,F sites. Meaning 22% (104 out of the 465) D,E,F sites caused category 1 and 2 incidents. This intervention will result in 8 fewer D,E,F sites in Wales. Assuming that the same incident rate (22%) applies, this suggests there may be 1-2 fewer incidents a year. The evidence summary shows that each incident generates an average cost of £24,048,⁹ so the total benefit is £24,000-£48,000 per year.

Non-monetised benefits

Certain benefits have not been possible to quantify, but have been included as non-monetised benefits. A significant non-monetised benefit is the creation of a more level playing field where non-compliant waste operators will be less able to undercut legitimate and compliant businesses. Another benefit is the reduction in criminality in the waste sector as a whole. Improving the performance at permitted waste sites will help crack down on operators that use waste permits to hide other forms of waste crime, such as, illegal waste sites, large scale illegal dumping and illegal exporting of waste.

Other non-monetised benefits include the reduction of:

- Health impacts from incidents
- Risks of surface and groundwater contamination
- Reputational damage to waste industry from publicity surrounding poor performing sites
- Reputational damage to regulators

⁸ Environment Agency: '[Pollution incidents: 2015 evidence summary](#)'.

⁹ EA Pollution incidents 2015 evidence summary; (July 2016). Available here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/651707/Pollution_incidents_2015_evidence_summary_LIT_10487.pdf

- Greenhouse gas emissions from fires.

The intervention will deter future poor performance through a multiplier effect or scaling, however values were not sufficiently robust to accurately monetise, but could significantly increase benefit estimates of policies.

Summary of costs and benefits

A summary of the costs and benefits over 10 years are set out in Table 2. There will be some transition costs, the table shows a summary of these and regular ongoing costs per year to businesses and regulators, and benefits to the regulators and society. It has been assumed that the transition costs realised in year 1 are familiarisation costs and costs for all necessary sites to develop appropriate management systems. Ongoing regular costs incurred from year 1 through to year 10 are incurred in addition to these, and remain constant over time.

Benefits are all accounted for as regular, however those accruing in year 1 are attributed to 60% of the disamenity value and avoided sites rated DEF, and those accruing from years 2 to 10 are attributed to 100% of this disamenity. Assumptions on the time apportionment are made on the understanding that regulator and environmental benefits will not be fully realised immediately. The 60% is a reasonable assumption as there is no empirical evidence on the speed, continuation and implementation of compliance from sites.

Table 2: Costs & Benefits (undiscounted) summary tables of Option 2. Values are in £m

		2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Costs											
Transition Costs	Business	0.39	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Society	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Annual Costs	Business	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Regulator	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Costs		0.39	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Benefits											
Transition Benefits	Business	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	Society	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Annual benefits	Regulator	0.02- 0.05	0.02- 0.05	0.02- 0.05	0.02- 0.05	0.02- 0.05	0.02- 0.05	0.02- 0.05	0.02- 0.05	0.02- 0.05	0.02- 0.05
	Society	0.34	0.56	0.56	0.56	0.56	0.56	0.56	0.56	0.56	0.56
Total Benefits		0.36- 0.38	0.58- 0.61	0.58- 0.61	0.58- 0.61	0.58- 0.61	0.58- 0.61	0.58- 0.61	0.58- 0.61	0.58- 0.61	0.58- 0.61
Net Benefit		-0.03- 0.00	0.58- 0.61	0.58- 0.61	0.58- 0.61	0.58- 0.61	0.58- 0.61	0.58- 0.61	0.58- 0.61	0.58- 0.61	0.58- 0.61

Wider impacts

Small and Micro Business Assessment (SaMBA)

Regulators do not collect data on the size of individual permit holder's business as this is not relevant to the permitting process. However, based on its knowledge of the sector and an analysis of the current stock of waste permits they estimate that around 40% of waste site operators in England and Wales are considered to be Small and Micro Business (SMBs), 15% are considered small businesses and 25% are considered micro businesses. The waste industry comprises a small number of large national companies with a large network of permitted and exempt operations. Their coverage is extensive and their operations are usually large enough to require a permit rather than an exemption. At the other end of the scale there are a large number of small and micro-businesses which offer local collection and waste management services. This network of small operators typically pass their waste to larger sites, often after intermediate bulking up, sorting or other treatment. In the middle are a number of regional operators. They may be wholly independent or trading arms of one of the larger companies. Despite some consolidation within the industry in recent years, they still represent an important part of the waste sector. 15% of the costs (approximately £58,000 of the £390,000 total costs to business over the first ten years) will fall on small businesses and 25% (£97,000) on micro businesses.

If we excluded SMBs from the approach then it would significantly compromise the objectives of the policy. SMBs account for a large part of the waste sector, so excluding them would mean that the proposals would not be applied to a significant proportion of waste permits and the environmental and social benefits would not be achieved.

As such, this intervention will impose an impact on SMBs. However, mitigating this, the waste permitting regime already takes an operator's size into account. Small scale operations are able to register for a waste exemption (an exemption from a waste permit), if their waste activities are considered very low risk. Additionally, we have taken into account the size and scale of waste businesses when designing the policy to ensure that the regulators apply the appropriate level of regulation. An operator will be required to produce a management system which is proportional to its size and scale. Smaller sites will be required to complete and implement a less comprehensive system in comparison to a larger complex site, and therefore would have to commit less time and funds to do this.

In addition, an operator's size and scale will be taken into account when undertaking a technical competency qualification. The regulators' assessment of the permitting stock indicates smaller sites generally perform lower risk activities and therefore need to gain the cheaper lower risk qualifications. For example, small sites undertake basic and lower risk activities, such as, inert construction waste sorting whereas higher risk activities are performed by the larger and more complex sites. There are exceptions, for example a small site can specialise in higher risk activity such as asbestos removal, but these situations are rare.

The legislation to implement option 2 will include a suitable transition period to allow smaller sites time to develop a site management system or ensure they have correct technical competence qualifications. The regulators will

communicate the changes to all waste permit holders in advance of option 2 being implemented. This will make smaller sites aware of the changes to ensure that they are able to comply with the legislation when it comes into force.

Preferred option and implementation

After considering the cost benefit analysis, Option 2 is the preferred option to take forward because it provides the best value for money for the taxpayer while achieving the policy aims. Option 1 is not the preferred option, as the costs to the natural environment, local communities and pollution incidents are not addressed.

8. Competition Assessment

The intervention will create a level playing field in the waste sector by ensuring that all waste sites are operated to the same levels of compliance. Therefore, intervention should increase legitimate competition in the waste sector as non-compliant waste operators will be less able to undercut compliant and legitimate operators.

As existing permitted sites move out of the D,E,F categories into A,B,C, waste will continue to be managed at existing permitted sites so capacity and choice will not be diminished. Any apparent under-capacity in the market will be filled by more suitable operators. The Regulators have identified no reason to believe that waste will be diverted away from compliant sites as a result of a more effective screening of applicants. Indeed the core purpose of a permitting regime is to ensure permits are only issued to operators who are most likely to be compliant with their permit. Issuing permits to high-risk operators is the most likely way of driving waste into non-compliant sites so restricting their access to permits is an effective way of supporting good operators.

The competition filter test	
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 businesses/organisation?	No

The competition filter test	
Question	Answer
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

Specific Impacts

Officials have carried out an Integrated Impact Assessment in regard to the waste operator proposals which assessed the following-

- Welsh Language Impact Assessment (WLIA) concluded the powers would not directly impact on the Welsh Language. The regulations, being composite, will be issued in English only.
- Rights of the Child Assessment concluded no identifiable conflict with United Nations Convention on the Rights of the Child and these proposals have no negative impacts on children and young people. These proposals will bring positive action, intended to tackle illegal waste activity which harms the environment and threatens human health;
- Equalities Impact Assessment concluded no impact on Equality Act 2010 and Welsh Government engaged with the relevant stakeholders who provided no response to the consultation;
- Rural Proofing Assessment – the rural proofing screening tool concluded the powers would bring positive benefits in rural areas by reducing the numbers of poor performing and illegal waste sites with associated issues of fly infestations, odour and risk of fires;
- Privacy Impact Assessment concluded there would be no additional data protection issues arising from this regulation.

Flood Risk Activities

In respect of the changes to exemptions and exclusions in relation to flood risk activities, there is no significant impact on business given that most changes are deregulatory. The proposed changes to flood risk activity exemptions and

exclusions will primarily affect those individuals, businesses and organisations that carry out works on or near to main rivers, such as: landowners and farmers; internal drainage boards; Canal and Rivers Trust; local authorities; riparian owners and householders; and environmental groups. The changes are intended to make the regulations clearer and introduce more flexibility for individuals and businesses.

Radioactive Sealed Sources

Changes related to radioactive sealed sources remove a burden on businesses.

9. Post implementation review

The regulators will take a risk based approach to implementing the policy. When implementing technical competence the regulator will expect all sites to take a technical competent qualification within two years and will focus on DEF status sites in year 1. When implementing management systems, all operators will have completed a management system within a year.

The need for monitoring and a post implementation review have been recognised. The regulators will analyse the number of poor performing sites on a quarterly basis and publish figures on an annual basis. Data from the regulators on the number of D,E,F rated sites will be analysed on an annual basis to monitor and assess the effectiveness of the intervention. The regulators will also provide an assessment of the levels of improvement of operator competence. This data and the assessment will be used to determine the benefits of the intervention.

SL(5)289 – Rheoliadau Cynlluniau Gostyngiadau'r Dreth Gyngor (Gofynion Rhagnodedig a Chynllun Diofyn) (Cymru) (Diwygio) 2019

Cefndir a Diben

Cynlluniau Gostyngiadau'r Dreth Gyngor yw'r dulliau a ddefnyddir gan awdurdodau lleol i roi cymorth i aelwydydd ar incwm isel er mwyn iddynt dalu'r dreth gyngor.

Mae'r rheoliadau yn ymwneud â Rheoliadau Cynlluniau Gostyngiadau'r Dreth Gyngor a Gofynion Rhagnodedig (Cymru) 2013 a Rheoliadau Cynlluniau Gostyngiadau'r Dreth Gyngor (Cynllun Diofyn) (Cymru) 2013 (y cyfeirir atynt o hyn ymlaen fel "Rheoliadau 2013"). Maent yn uwchraddio rhai ffigurau a ddefnyddir i gyfrifo hawl ymgeisydd i ostyngiad, a lefel y gostyngiad, o dan Gynllun Gostyngiadau'r Dreth Gyngor.

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

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.**

Yn rheoliad 1(4), mae'r testun Saesneg yn cynnwys y term Cymraeg cyfatebol ar gyfer "*council tax reduction scheme*" ("cynllun gostyngiadau'r dreth gyngor"), ond nid yw'r testun Cymraeg yn cynnwys y term Saesneg cyfatebol.

Fel arfer, caiff Rheoliadau 2013 eu diwygio bob blwyddyn, ac mae'r Rheoliadau diwygio blaenorol bob amser wedi cynnwys y term Saesneg cyfatebol yn y testun Cymraeg.

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
4 Rhagfyr 2018**



Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan adran 13A(8) o Ddeddf Cyllid Llywodraeth Leol 1992, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU DRAFFT

2019 Rhif (Cy.)

Y DRETH GYNGOR, CYMRU

Rheoliadau Cynlluniau
Gostyngiadau'r Dreth Gyngor
(Gofynion Rhagnodedig a'r
Cynllun Diofyn) (Cymru)
(Diwygio) 2019

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Cynlluniau Gostyngiadau'r Dreth Gyngor a Gofynion Rhagnodedig (Cymru) 2013 ("y Rheoliadau Gofynion Rhagnodedig") a Rheoliadau Cynlluniau Gostyngiadau'r Dreth Gyngor (Cynllun Diofyn) (Cymru) 2013 ("y Rheoliadau Cynllun Diofyn") a wnaed o dan adran 13A(4) a (5) o Ddeddf Cyllid Llywodraeth Leol 1992, ac Atodlen 1B iddi.

Mae'r Rheoliadau Gofynion Rhagnodedig yn ei gwneud yn ofynnol i bob awdurdod bilio yng Nghymru wneud cynllun sy'n pennu'r gostyngiadau sydd i fod yn gymwys i symiau o'r dreth gyngor sy'n daladwy gan bersonau, neu gan ddsbarthiadau o bersonau, y mae'r awdurdod yn ystyried eu bod mewn angen ariannol. Mae'r Rheoliadau Gofynion Rhagnodedig hefyd yn nodi'r materion y mae'n rhaid eu cynnwys mewn cynllun o'r fath.

Mae'r Rheoliadau Cynllun Diofyn yn nodi cynllun a fydd yn cael effaith, mewn cysylltiad ag anheddau sydd wedi eu lleoli yn ardal awdurdod bilio, os yw'r awdurdod yn methu â gwneud ei gynllun ei hun.

Mae'r Rheoliadau hyn yn diwygio'r Rheoliadau Gofynion Rhagnodedig a'r Rheoliadau Cynllun Diofyn.

Mae'r diwygiadau i'r Rheoliadau Gofynion Rhagnodedig a wneir gan reoliadau 4, 6(a)(i) i (v) a 7 yn cynyddu rhai o'r ffigyrau a ddefnyddir wrth gyfrifo a oes gan berson yr hawl i gael gostyngiad ai peidio, a swm y gostyngiad hwnnw. Mae'r ffigyrau uwchraddedig yn ymwneud â didyniadau annibynyddion (sef addasiadau i uchafswm y gostyngiad y mae hawl gan berson i'w gael, er mwyn cymryd i ystyriaeth oedolion sy'n byw yn yr annedd ac nad ydynt yn ddibynyddion y ceisydd); ac â'r swm cymwysadwy mewn perthynas â chais am ostyngiad (sef y swm y cymherir incwm ceisydd ag ef, er mwyn penderfynu swm y gostyngiad y mae hawl gan y ceisydd i'w gael). Gwneir yr un diwygiadau mewn perthynas â'r Rheoliadau Cynllun Diofyn gan reoliadau 12, 14 a 15.

Gwneir y diwygiadau i'r Rheoliadau Gofynion Rhagnodedig a wneir gan reoliadau 5, 9(b) a 10(a) ac (c) o ganlyniad i fudd-dâl nawdd cymdeithasol newydd o'r enw'r Taliad Cymorth Profedigaeth (TCP) i briodau a phartneriaid sifil sy'n goroesi a wneir yn weddw ar 6 Ebrill 2017 neu ar ôl hynny. Mae'r diwygiadau yn sicrhau y caiff taliadau amrywiol o'r TCP eu diystyru wrth gyfrifo incwm fel bod, yn gyntaf, y taliad uwch cychwynnol ac unrhyw ôl-ddyledion sydd wedi eu cynnwys yn y taliad misol cyntaf yn cael eu trin fel cyfalaf, a diystyriad o 12 mis yn cael ei gymhwyso o'r dyddiad talu, ac yn ail, fel bod taliadau misol llai dilynol (ac eithrio ôl-ddyledion) yn cael eu trin fel incwm a'u diystyru am fis. Gwneir yr un diwygiadau i'r Rheoliadau Cynllun Diofyn gan reoliadau 17(b), 18 a 19(a) ac (c).

Gwneir y diwygiadau i'r Rheoliadau Gofynion Rhagnodedig a wneir gan reoliadau 9(a) a 10(b) o ganlyniad i newid enw a throsglwyddo swyddogaethau o'r Ysgrifennydd Gwladol dros Iechyd i'r Ysgrifennydd Gwladol dros Iechyd a Gofal Cymdeithasol a wneir gan Orchymyn yr Ysgrifenyddion Gwladol dros Iechyd a Gofal Cymdeithasol a thros Dai, Cymunedau a Llywodraeth Leol a Throsglwyddo Swyddogaethau (Tir Cyfunddaliad) 2018. Gwneir yr un diwygiadau i'r Rheoliadau Cynllun Diofyn gan reoliadau 17(a) a 19(b).

Bwriad y diwygiad i'r Rheoliadau Gofynion Rhagnodedig a wneir gan reoliad 8 yw egluro'r amodau cymhwyso ar gyfer diystyriad pan fo ceisydd yn aelod o gwpl. Ei fwriad yw egluro bod rhaid i'r person sy'n gweithio hefyd fod y person sy'n bodloni'r amodau cymhwyso drwy fod y person—

- sydd â hawl i bremiwm anabledd, neu
- sy'n derbyn yr elfen gymorth fel rhan o'i ddyfarniad o'r Lwfans Cyflogaeth a Chymorth (LCCh), neu

- sydd yn y grŵp gweithgaredd perthynol i waith ar gyfer LCCh.

Gwneir yr un diwygiad i'r Rheoliadau Cynllun Diofyn gan reoliad 16.

Caiff y diwygiadau a wneir i'r Rheoliadau Gofynion Rhagnodedig gan reoliadau 3(b) a 6(b) eu gwneud o ganlyniad i'r ffaith fod Rhan 1 o Ddeddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 ar fin cychwyn mewn perthynas â gwasanaeth maethu o fewn ystyr y Ddeddf honno. Mae'r cynllun a ddefnyddir ar hyn o bryd i gymeradwyo rhieni maeth wedi ei nodi yn Rheoliadau Gwasanaethau Maethu (Cymru) 2003 ("Rheoliadau 2003"). Fodd bynnag, mae'n bosibl y caiff y Rheoliadau hynny eu disodli gan Reoliadau pellach a wneir yn unol ag adrannau 87 a 93 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 ("Deddf 2014") yn ystod y flwyddyn ariannol nesaf. Gwneir y diwygiad er mwyn sicrhau y bydd rhieni maeth a gymeradwyir o dan Reoliadau 2003 neu o dan unrhyw reoliadau a wneir yn unol ag adrannau 87 a 93 o Ddeddf 2014 yn ddarostyngedig i'r ddarpariaeth a wneir yn y Rheoliadau Gofynion Rhagnodedig mewn cysylltiad â thrin costau gofal plant. Mae rheoliad 13 yn gwneud yr un diwygiad yn y Rheoliadau Cynllun Diofyn.

Mae'r diwygiad i'r Rheoliadau Gofynion Rhagnodedig a wneir gan reoliad 6(a)(vi) yn egluro'r sefyllfa mewn cysylltiad â didyniadau annibynyddion fel na fydd unrhyw ddidyniad yn digwydd pan na fo annibynnydd yn y grŵp gweithgaredd perthynol i waith ac yn derbyn budd-daliadau penodol, sef cymhorthdal incwm, credyd pensiwn y wladwriaeth, lwfans ceisio gwaith ar sail incwm neu lwfans cyflogaeth a chymorth ar sail incwm.

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 oddi wrth yr Is-adran Cyllid Llywodraeth Leol a Pherfformiad Gwasanaethau Cyhoeddus, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

Rheoliadau drafft a osodwyd gerbron Cynulliad Cenedlaethol Cymru o dan adran 13A(8) o Ddeddf Cyllid Llywodraeth Leol 1992, i'w cymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru.

OFFERYNNAU STATUDOL
CYMRU DRAFFT

2019 Rhif (Cy.)

Y DRETH GYNGOR, CYMRU

**Rheoliadau Cynlluniau
Gostyngiadau'r Dreth Gyngor
(Gofynion Rhagnodedig a'r
Cynllun Diofyn) (Cymru)
(Diwygio) 2019**

Gwnaed

Yn dod i rym yn unol â rheoliad 1(2)

Mae Gweinidogion Cymru yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddir iddynt gan adran 13A(4) a (5) o Ddeddf Cyllid Llywodraeth Leol 1992(1), a pharagraffau 2 i 7 o Atodlen 1B iddi.

Yn unol ag adran 13A(8) o'r Ddeddf honno, gosodwyd drafft o'r offeryn hwn gerbron Cynulliad Cenedlaethol Cymru a'i gymeradwyo drwy benderfyniad ganddo.

Enwi, cychwyn a dehongli

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Cynlluniau Gostyngiadau'r Dreth Gyngor (Gofynion Rhagnodedig a'r Cynllun Diofyn) (Cymru) (Diwygio) 2019.

(2) Daw'r Rheoliadau hyn i rym drannoeth y diwrnod y'u gwneir.

(3) Mae'r Rheoliadau hyn yn gymwys mewn perthynas â chynllun gostyngiadau'r dreth gyngor a

(1) 1992 p. 14. Amnewidiwyd adran 13A gan adran 10(1) o Ddeddf Cyllid Llywodraeth Leol 2012 (p. 17) a mewnosodwyd Atodlen 1B gan adran 10(2) o'r Ddeddf honno, ac Atodlen 4 iddi.

wneir ar gyfer blwyddyn ariannol sy'n dechrau ar 1 Ebrill 2019 neu ar ôl hynny.

(4) Yn y Rheoliadau hyn ystyr “cynllun gostyngiadau'r dreth gyngor” yw cynllun a wneir gan awdurdod bilio yn unol â Rheoliadau Cynlluniau Gostyngiadau'r Dreth Gyngor a Gofynion Rhagnodedig (Cymru) 2013(1), neu'r cynllun sy'n gymwys yn ddiodyn yn rhinwedd paragraff 6(1)(e) o Atodlen 1B i Ddeddf Cyllid Llywodraeth Leol 1992.

Diwygiadau i Reoliadau Cynlluniau Gostyngiadau'r Dreth Gyngor a Gofynion Rhagnodedig (Cymru) 2013

2. Mae Rheoliadau Cynlluniau Gostyngiadau'r Dreth Gyngor a Gofynion Rhagnodedig (Cymru) 2013 wedi eu diwygio yn unol â rheoliadau 3 i 10.

3. Yn Atodlen 1 (penderfynu cymhwysra am ostyngiad: pensiynwyr)—

(a) ym mharagraff 3 (didyniadau annibynyddion: pensiynwyr)—

(i) yn is-baragraff (1)(a) yn lle “£13.10” rhodder “£13.75”;

(ii) yn is-baragraff (1)(b) yn lle “£4.35” rhodder “£4.55”;

(iii) yn is-baragraff (2)(a) yn lle “£205.00” rhodder “£210.00”;

(iv) yn is-baragraff (2)(b) yn lle “£205.00”, “£355.00” ac “£8.70” rhodder “£210.00”, “£365.00” a “£9.15” yn y drefn honno;

(v) yn is-baragraff (2)(c) yn lle “£355.00”, “£440.00” a “£10.95” rhodder “£365.00”, “£450.00” ac “£11.50” yn y drefn honno;

(b) ym mharagraff 19(8)(k) (trin costau gofal plant: pensiynwyr), yn lle “Rheoliadau Gwasanaethau Maethu (Cymru) 2003” rhodder “Rheoliadau Gwasanaethau Maethu (Cymru) 2003(2), neu unrhyw reoliadau a wneir o dan adrannau 87 a 93 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014(3) sy'n gwneud darpariaeth ar gyfer cymeradwyo rhieni maeth awdurdodau lleol”.

4. Yn Atodlen 2 (symiau cymwysadwy: pensiynwyr)—

-
- (1) O.S. 2013/3029 (Cy. 301), a ddiwygiwyd gan O.S. 2014/66 (Cy. 6), O.S. 2014/825 (Cy. 83), O.S. 2014/852, O.S. 2015/44 (Cy. 3), O.S. 2015/971, O.S. 2016/50 (Cy. 21), O.S. 2017/46 (Cy. 20) ac O.S. 2018/14 (Cy. 7).
- (2) O.S. 2003/237 (Cy. 35).
- (3) 2014 dccc 4.

- (a) yng ngholofn (2) o'r Tabl ym mharagraff 1 (Iwfansau personol)—
- (i) yn is-baragraff (1) yn lle “£163.00” a “£176.40” rhodder “£167.25” a “£181.00” yn y drefn honno;
 - (ii) yn is-baragraff (2) yn lle “£248.80” a “£263.80” rhodder “£255.25” a “£270.60” yn y drefn honno;
 - (iii) yn is-baragraff (3) yn lle “£248.80” ac “£85.80” rhodder “£255.25” ac “£88.00” yn y drefn honno;
 - (iv) yn is-baragraff (4) yn lle “£263.80” ac “£87.40” rhodder “£270.60” ac “£89.60” yn y drefn honno;
- (b) yn y Tabl yn Rhan 4 (symiau'r premiymau a bennir yn Rhan 3), yn yr ail golofn—
- (i) yn is-baragraff (1) yn lle “£64.30” ym mhob lle y mae'n digwydd rhodder “£65.85” ac yn lle “£128.60” rhodder “£131.70”;
 - (ii) yn is-baragraff (2) yn lle “£25.48” rhodder “£26.04”;
 - (iii) yn is-baragraff (3) yn lle “£62.86” rhodder “£64.19”;
 - (iv) yn is-baragraff (4) yn lle “£36.00” rhodder “£36.85”.

5. Yn Atodlen 5 (diystyriadau cyfalaf: pensiynewyr)—

- (a) ym mharagraff 21(2)—
- (i) ym mharagraff (p) hepgorer “neu.”;
 - (ii) ym mharagraff (q) yn lle “.” rhodder “; neu.”;
 - (iii) ar ôl paragraff (q) mewnosoder—
 - “(r) taliad cymorth profedigaeth o dan adran 30 o Ddeddf Pensiynau 2014(1).”; a
- (b) ar ôl paragraff 28B mewnosoder—

“**28C.** Unrhyw daliad cymorth profedigaeth mewn cysylltiad â'r gyfradd a bennir yn rheoliad 3(2) neu (5) o Reoliadau Taliad Cymorth Profedigaeth 2017(2) (cyfradd y taliad cymorth profedigaeth), ond am gyfnod o 52 o wythnosau yn unig o ddyddiad cael y taliad.”

6. Yn Atodlen 6 (penderfynu cymhwysra am ostyngiad o dan gynllun awdurdod, swm unrhyw ostyngiad, a chyfrifo incwm a chyfalaf: personau nad ydynt yn bensiynwyr)—

(1) 2014 p. 19.
 (2) O.S. 2017/410.

- (a) ym mharagraff 5 (didyniadau annibynyddion: personau nad ydynt yn bensiynwyr)—
- (i) yn is-baragraff (1)(a) yn lle “£13.10” rhodder “£13.75”;
 - (ii) yn is-baragraff (1)(b) yn lle “£4.35” rhodder “£4.55”;
 - (iii) yn is-baragraff (2)(a) yn lle “£205.00” rhodder “£210.00”;
 - (iv) yn is-baragraff (2)(b) yn lle “£205.00”, “£355.00” ac “£8.70” rhodder “£210.00”, “£365.00” a “£9.15” yn y drefn honno;
 - (v) yn is-baragraff (2)(c) yn lle “£355.00”, “£440.00” a “£10.95” rhodder “£365.00”, “£450.00” ac “£11.50” yn y drefn honno;
 - (vi) yn is-baragraff (8) yn lle paragraff (a) rhodder—
 - “(a) nad yw’n aelod o’r grŵp gweithgaredd perthynol i waith, ac sy’n derbyn cymhorthdal incwm, credyd pensiwn y wladwriaeth, lwfans ceisio gwaith ar sail incwm neu lwfans cyflogaeth a chymorth ar sail incwm;”;
- (b) ym mharagraff 21(8)(k) (trin costau gofal plant) yn lle “Rheoliadau Gwasanaethau Maethu (Cymru) 2003” rhodder “Rheoliadau Gwasanaethau Maethu (Cymru) 2003 neu unrhyw reoliadau a wneir o dan adrannau 87 a 93 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant 2014 sy’n gwneud darpariaeth ar gyfer cymeradwyo rhieni maeth awdurdodau lleol”.

7. Yn Atodlen 7 (symiau cymwysadwy: personau nad ydynt yn bensiynwyr)—

- (a) yng ngholofn (2) o’r Tabl ym mharagraff 1 (lwfansau personol)—
- (i) yn is-baragraff (1) yn lle “£76.10” ym mhob lle y mae’n digwydd rhodder “£77.90” ac yn lle “£60.25” rhodder “£61.70”;
 - (ii) yn is-baragraff (2) yn lle “£76.10” rhodder “£77.90”;
 - (iii) yn is-baragraff (3) yn lle “£119.50” rhodder “£122.35”;
- (b) yn y Tabl yn Rhan 4 (symiau’r premiymau a bennir yn Rhan 3), yn yr ail golofn—
- (i) yn is-baragraff (1) yn lle “£33.55” a “£47.80” rhodder “£34.35” a “£48.95” yn y drefn honno;
 - (ii) yn is-baragraff (2) yn lle “£64.30” ym mhob lle y mae’n digwydd rhodder “£65.85” ac yn lle “£128.60” rhodder “£131.70”;

- (iii) yn is-baragraff (3) yn lle “£62.86” rhodder “£64.19”;
- (iv) yn is-baragraff (4) yn lle “£36.00” rhodder “£36.85”;
- (v) yn is-baragraff (5) yn lle “£25.48”, “£16.40” a “£23.55” rhodder “£26.04”, “£16.80” a “£24.10” yn y drefn honno;
- (c) yn Rhan 6 (symiau’r elfennau), ym mharagraff 24 (swm yr elfen gymorth), yn lle “£37.65” rhodder “£38.55”.

8. Yn Atodlen 8 (symiau a ddiystyrir wrth gyfrifo enillion: personau nad ydynt yn bensiynwyr), ym mharagraff 18(2)(b), yn lle is-baragraff (iv) rhodder—

“(iv) y ceisydd, nad yw’n aelod o gwpl, yn ymgymryd â gwaith am dâl am ddim llai nag 16 awr yr wythnos ar gyfartaledd, a bod—

(aa) swm cymwysadwy’r ceisydd yn cynnwys premiwm anabledd o dan baragraff 9 o Atodlen 7 neu’r elfen gymorth o dan baragraff 22 o Atodlen 7; neu

(bb) y ceisydd yn aelod o’r grŵp gweithgaredd perthynol i waith; neu

(v) y ceisydd yn aelod o gwpl ac o leiaf un aelod o’r cwpl hwnnw yn ymgymryd â gwaith am dâl am ddim llai nag 16 awr yr wythnos ar gyfartaledd, a bod yr aelod hwnnw o’r cwpl—

(aa) yn bodloni’r amodau cymhwyso ar gyfer y premiwm anabledd o dan baragraff 9 o Atodlen 7 neu’r elfen gymorth o dan baragraff 22 o Atodlen 7; neu

(bb) yn aelod o’r grŵp gweithgaredd perthynol i waith.”

9. Yn Atodlen 9 (symiau a ddiystyrir wrth gyfrifo incwm ac eithrio enillion: personau nad ydynt yn bensiynwyr)—

- (a) ym mharagraff 46(2) ar ôl “Ysgrifennydd Gwladol dros Iechyd” mewnosoder “a Gofal Cymdeithasol”;
- (b) ar ôl paragraff 66 mewnosoder—

“**67.** Unrhyw daliad cymorth profedigaeth o dan adran 30 o Ddeddf Pensiynau 2014 (taliad

cymorth profedigaeth) ac eithrio unrhyw daliad o'r fath a ddiystyrir fel cyfalaf o dan baragraff 12(1)(h) neu 65 o Atodlen 10.”

10. Yn Atodlen 10 (diystiriadau cyfalaf: personau nad ydynt yn bensiynwyr)—

- (a) ym mharagraff 12(1)—
 - (i) ym mharagraff (g) yn lle “,” rhodder “;”;
 - (ii) ar ôl paragraff (g) mewnosoder—

“(h) taliad cymorth profedigaeth o dan adran 30 o Ddeddf Pensiynau 2014,”;
- (b) ym mharagraff 43(2) ar ôl “Ysgrifennydd Gwladol dros Iechyd” mewnosoder “a Gofal Cymdeithasol”;
- (c) ar ôl paragraff 64 mewnosoder—

“**65.** Unrhyw daliad cymorth profedigaeth mewn cysylltiad â'r gyfradd a bennir yn rheoliad 3(2) neu (5) o Reoliadau Cymorth Profedigaeth 2017 (cyfradd y taliad cymorth profedigaeth), ond am gyfnod o 52 o wythnosau yn unig o ddyddiad cael y taliad.”

Diwygiadau i Reoliadau Cynlluniau Gostyngiadau'r Dreth Gyngor (Cynllun Diofyn) (Cymru) 2013

11. Mae'r cynllun a nodir yn yr Atodlen i Reoliadau Cynlluniau Gostyngiadau'r Dreth Gyngor (Cynllun Diofyn) (Cymru) 2013(1) wedi ei ddiwygio yn unol â rheoliadau 12 i 19.

12. Ym mharagraff 28 (didyniadau annibynyddion: pensynwyr a phersonau nad ydynt yn bensiynwyr)—

- (a) yn is-baragraff (1)(a) yn lle “£13.10” rhodder “£13.75”;
- (b) yn is-baragraff (1)(b) yn lle “£4.35” rhodder “£4.55”;
- (c) yn is-baragraff (2)(a) yn lle “£205.00” rhodder “£210.00”;
- (d) yn is-baragraff (2)(b) yn lle “£205.00”, “£355.00” ac “£8.70” rhodder “£210.00”, “£365.00” a “£9.15” yn y drefn honno;
- (e) yn is-baragraff (2)(c) yn lle “£355.00”, “£440.00” a “£10.95” rhodder “£365.00”, “£450.00” ac “£11.50”.

13. Ym mharagraff 55(8)(k) (trin costau gofal plant) yn lle “Rheoliadau Gwasanaethau Maethu (Cymru) 2003” rhodder “Rheoliadau Gwasanaethau Maethu

(1) O.S. 2013/3035 (Cy. 303), a ddiwygiwyd gan O.S. 2014/66 (Cy. 6), O.S. 2014/825 (Cy. 83), O.S. 2014/852, O.S. 2015/44 (Cy. 3), O.S. 2015/971, O.S. 2016/50 (Cy. 21), O.S. 2017/46 (Cy. 20) ac O.S. 2018/14 (Cy. 7).

(Cymru) 2003 neu unrhyw reoliadau a wneir o dan adrannau 87 a 93 o Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 sy'n gwneud darpariaeth ar gyfer cymeradwyo rhieni maeth awdurdodau lleol”.

14. Yn Atodlen 2 (symiau cymwysadwy: pensiynewyr)—

- (a) yng ngholofn (2) o'r Tabl ym mharagraff 1 (lwfansau personol)—
 - (i) yn is-baragraff (1) yn lle “£163.00” a “£176.40” rhodder “£167.25” a “£181.00” yn y drefn honno;
 - (ii) yn is-baragraff (2) yn lle “£248.80” a “£263.80” rhodder “£255.25” a “£270.60” yn y drefn honno;
 - (iii) yn is-baragraff (3) yn lle “£248.80” ac “£85.80” rhodder “£255.25” ac “£88.00” yn y drefn honno;
 - (iv) yn is-baragraff (4) yn lle “£263.80” ac “£87.40” rhodder “£270.60” ac “£89.60” yn y drefn honno;
- (b) yn y Tabl yn Rhan 4 (symiau'r premiymau a bennir yn Rhan 3), yn yr ail golofn—
 - (i) yn is-baragraff (1) yn lle “£64.30” ym mhob lle y mae'n digwydd rhodder “£65.85” ac yn lle “£128.60” rhodder “£131.70”;
 - (ii) yn is-baragraff (2) yn lle “£25.48” rhodder “£26.04”;
 - (iii) yn is-baragraff (3) yn lle “£62.86” rhodder “£64.19”;
 - (iv) yn is-baragraff (4) yn lle “£36.00” rhodder “£36.85”.

15. Yn Atodlen 3 (symiau cymwysadwy: personau nad ydynt yn bensiynwyr)—

- (a) yng ngholofn (2) o'r Tabl ym mharagraff 1 (lwfansau personol)—
 - (i) yn is-baragraff (1) yn lle “£76.10” ym mhob lle y mae'n digwydd rhodder “£77.90” ac yn lle “£60.25” rhodder “£61.70”;
 - (ii) yn is-baragraff (2) yn lle “£76.10” rhodder “£77.90”;
 - (iii) yn is-baragraff (3) yn lle “£119.50” rhodder “£122.35”;
- (b) yn y Tabl yn Rhan 4 (symiau'r premiymau a bennir yn Rhan 3), yn yr ail golofn—
 - (i) yn is-baragraff (1) yn lle “£33.55” a “£47.80” rhodder “£34.35” a “£48.95” yn y drefn honno;

- (ii) yn is-baragraff (2) yn lle “£64.30” ym mhob lle y mae’n digwydd rhodder “£65.85” ac yn lle “£128.60” rhodder “£131.70”;
 - (iii) yn is-baragraff (3) yn lle “£62.86” rhodder “£64.19”;
 - (iv) yn is-baragraff (4) yn lle “£36.00” rhodder “£36.85”;
 - (v) yn is-baragraff (5) yn lle “£25.48”, “£16.40” a “£23.55” rhodder “£26.04”, “£16.80” a “£24.10” yn y drefn honno;
- (c) yn Rhan 6 (symiau’r elfennau), ym mharagraff 24 (swm yr elfen gymorth), yn lle “£37.65” rhodder “£38.55”.

16. Yn Atodlen 6 (symiau a ddiystyrir wrth gyfrifo enillion: personau nad ydynt yn bensynwyr), ym mharagraff 18(2)(b), yn lle is-baragraff (iv) rhodder—

“(iv) y ceisydd, nad yw’n aelod o gwpl, yn ymgymryd â gwaith am dâl am ddim llai nag 16 yr wythnos ar gyfartaledd, a bod—

(aa) swm cymwysadwy’r ceisydd yn cynnwys premiwm anabledd o dan baragraff 9 o Atodlen 3 neu’r elfen gymorth o dan baragraff 22 o Atodlen 3; neu

(bb) y ceisydd yn aelod o’r grŵp gweithgaredd perthynol i waith; neu

(v) y ceisydd yn aelod o gwpl ac o leiaf un aelod o’r cwpl hwnnw yn ymgymryd â gwaith am dâl am ddim llai nag 16 awr yr wythnos ar gyfartaledd, a bod yr aelod hwnnw o’r cwpl—

(aa) yn bodloni’r amodau cymhwyso ar gyfer y premiwm anabledd o dan baragraff 9 o Atodlen 3 neu’r elfen gymorth o dan baragraff 22 o Atodlen 3; neu

(bb) yn aelod o’r grŵp gweithgaredd perthynol i waith.”

17. Yn Atodlen 7 (symiau a ddiystyrir wrth gyfrifo incwm ac eithrio enillion: personau nad ydynt yn bensynwyr)—

- (a) ym mharagraff 46(2) ar ôl “Ysgrifennydd Gwladol dros Iechyd” mewnosoder “a Gofal Cymdeithasol”;
- (b) ar ôl paragraff 66 mewnosoder—

“**67.** Unrhyw daliad cymorth profedigaeth o dan adran 30 o Ddeddf Pensiynau 2014 (taliad cymorth profedigaeth) ac eithrio unrhyw daliad o’r fath a ddiystyrir fel cyfalaf o dan baragraff 12(1)(h) o Atodlen 9 neu baragraff 65 o Atodlen 9.”

18. Yn Atodlen 8 (diystiriadau cyfalaf: pensiynwyr)—

- (a) ym mharagraff 21(2)—
 - (i) ym mharagraff (p) hepgorer “neu;”;
 - (ii) ym mharagraff (q) yn lle “.” rhodder “; neu”;
 - (iii) ar ôl paragraff (q) mewnosoder—
 - “(r) taliad cymorth profedigaeth o dan adran 30 o Ddeddf Pensiynau 2014.”;
- (b) ar ôl paragraff 28B mewnosoder—

“**28C.** Unrhyw daliad cymorth profedigaeth mewn cysylltiad â’r gyfradd a bennir yn rheoliad 3(2) neu (5) o Reoliadau Taliad Cymorth Profedigaeth 2017 (cyfradd y taliad cymorth profedigaeth), ond am gyfnod o 52 o wythnosau yn unig o ddyddiad cael y taliad.”

19. Yn Atodlen 9 (diystiriadau cyfalaf: personau nad ydynt yn bensiynwyr)—

- (a) yn lle paragraff 12(1) rhodder—
 - “(1) Yn ddarostyngedig i is-baragraff (2), unrhyw ôl-ddyled o’r canlynol, neu unrhyw daliad consesiynol a wneir i ddigolledu am ôl-ddyled oherwydd methiant i dalu’r canlynol, ond am gyfnod o 52 o wythnosau yn unig o ddyddiad cael yr ôl-ddyled neu’r taliad consesiynol—
 - (a) unrhyw daliad a bennir ym mharagraffau 11, 13 neu 14 o Atodlen 7;
 - (b) budd-dal ar sail incwm o dan Ran 7 o DCBNC(1);
 - (c) lwfans ceisio gwaith ar sail incwm;

(1) Ystyr “DCBNC” yw Deddf Cyfraniadau a Budd-daliadau Nawdd Cymdeithasol 1992 (p. 4); gweler y diffiniad yn rheoliad 2 o Reoliadau Cynlluniau Gostyngiadau’r Dreth Gyngor a Gofynion Rhagnodedig (Cymru) 2013 ac ym mharagraff 2 o’r cynllun a nodir yn yr Atodlen i Reoliadau Cynlluniau Gostyngiadau’r Dreth Gyngor (Cynlluniau Diofyn) (Cymru) 2013.

- (d) unrhyw daliad tai disgresiynol a delir yn unol â rheoliad 2(1) o Reoliadau Cymorth Ariannol Disgresiynol 2001(1);
 - (e) credyd treth gwaith a chredyd treth plant;
 - (f) lwfans cyflogaeth a chymorth ar sail incwm;
 - (g) credyd cynhwysol;
 - (h) taliad cymorth profedigaeth o dan adran 30 o Ddeddf Pensiynau 2014.”;
- (b) ym mharagraff 43(2) ar ôl “Ysgrifennydd Gwladol dros Iechyd” mewnosoder “a Gofal Cymdeithasol”;
- (c) ar ôl paragraff 64 mewnosoder—

“**65.** Unrhyw daliad cymorth profedigaeth mewn cysylltiad â’r gyfradd a nodir yn rheoliad 3(2) neu (5) o Reoliadau Taliad Cymorth Profedigaeth 2017 (cyfradd y taliad cymorth profedigaeth), ond am gyfnod o 52 o wythnosau yn unig o ddyddiad cael y taliad.”

Enw

Ysgrifennydd y Cabinet dros Gyllid, un o

Weinidogion Cymru

Dyddiad

(1) O.S. 2001/1167.

**Explanatory Memorandum to the Council Tax Reduction Schemes
(Prescribed Requirements and Default Scheme) (Wales) (Amendment)
Regulations 2019**

This Explanatory Memorandum has been prepared by Local Government Strategic Finance 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 Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2019. I am satisfied that the benefits outweigh any costs.

**Mark Drakeford
Cabinet Secretary for Finance
27 November 2018**

1 Description

- 1.1 Council Tax Reduction Schemes (CTRS) are the mechanism by which local authorities provide support to low income households in meeting their council tax liability.
- 1.2 This statutory instrument makes amendments to the Council Tax Reduction Schemes and Prescribed Requirements (Wales) Regulations 2013 and the Council Tax Reduction Schemes (Default Scheme) (Wales) Regulations 2013 (referred to collectively in this Explanatory Memorandum as “the 2013 CTRS Regulations”). It updates certain figures used to calculate an applicant’s entitlement to a reduction under a Council Tax Reduction Scheme, and the subsequent level of reduction.

2 Matters of special interest to the Constitutional and Legislative Affairs Committee

- 2.1 None.

3 Legislative background

- 3.1 Section 10 of, and Schedule 4 to, the Local Government Finance Act 2012 inserted a new Section 13A and new Schedule 1B into the Local Government Finance Act 1992 (the 1992 Act). These provisions enabled the Welsh Ministers to introduce Council Tax Reduction Schemes (CTRS) in Wales via regulations.
- 3.2 The relevant provisions in the Local Government Finance Act 2012 were subject to a Legislative Consent Motion which was approved by the National Assembly for Wales on 26 June 2012. The Local Government Finance Act 2012 received Royal Assent on 1 November 2012.
- 3.3 This statutory instrument is laid and made under the new section 13A of, and the new Schedule 1B to, the Local Government Finance Act 1992. The instrument is subject to approval of the Assembly (the affirmative procedure).

4 Purpose and intended effect of the legislation

- 4.1 This statutory instrument amends the 2013 CTRS Regulations to update certain figures in those Regulations used to calculate entitlement to a council tax reduction, and the amount of any reduction awarded to applicants in the 2019-20 financial year.

Background

- 4.2 The Welfare Reform Act 2012 contained provisions to abolish Council Tax Benefit from 31 March 2013. From 1 April 2013, responsibility for providing support for council tax was devolved to local authorities in England. Fixed funding, reduced by 10% compared to the 2012-13 costs, was passed to the

Welsh Government and to the Scottish Government to allow the Devolved Administrations to develop replacement schemes.

- 4.3 Following the UK Government's decision, the Welsh Government sought provisions in the Local Government Finance Act 2012 which amended the Local Government Finance Act 1992 (the 1992 Act), to provide the Welsh Ministers with executive powers to introduce Council Tax Reduction Schemes in Wales via regulations.
- 4.4 The 2013 CTRS Regulations were approved by the National Assembly for Wales on 26 November 2013.
- 4.5 The Welsh Government provided £244m in the Local Government Settlement for CTRS for 2013-14. This was partly funded through the fixed budget of £222m which was transferred from the UK Government. The Welsh Government provided an additional £22m to enable local authorities to continue to provide all eligible applicants with their full entitlement to support. The Welsh Government has continued to provide £244m within the local government settlement each year since.

2013 CTRS Regulations

- 4.6 Aligned with the provisions in the 1992 Act, the 2013 CTRS Regulations govern the operation of CTRS in Wales. These regulations were closely based on the previous Council Tax Benefit rules to prevent low-income households facing sharp changes in the level of support they received. All eligible applicants were automatically and seamlessly transferred from Council Tax Benefit onto Council Tax Reduction Schemes from 1 April 2013.
- 4.7 If an applicant receives Income Support, Income-Based Jobseeker's Allowance (JSA), Income-Based Employment and Support Allowance (ESA), Pension Credit, or Pension Credit Guarantee, they are entitled to the maximum, full, reduction in their council tax liability. Approximately 70% of CTRS applicants in Wales receive the passported benefits.
- 4.8 If an applicant does not receive any of the passported benefits, the weekly amount of money which they are judged to need to live on is calculated. This is known as the 'applicable amount' and consists of two components:
 - The first is the personal allowance – the basic amount a person needs to live, which varies according to the household's circumstances. For example, the allowance for a couple with children is higher than for a single person without children. These allowances are also set at higher rates for those who have reached State Pension Age.
 - The second component is the premium – additional amounts added to reflect any personal circumstances which increase the cost of living, such as a disability or carer's responsibilities. Once the applicable amount has been determined, the applicant's level of income is calculated.

- 4.9 Universal Credit (UC) recipients are treated in a similar way to non-passported applicants. However, instead of an 'applicable amount' being calculated, the 'maximum amount' (calculated within their UC application) is used instead.
- 4.10 If the applicable amount (or maximum amount) is higher than an applicant's calculated income, they are entitled to the maximum reduction in their council tax liability. If income exceeds the applicable amount, the weekly entitlement is reduced by 20p for each £1 of excess weekly income, until entitlement is withdrawn – this is known as the taper.
- 4.11 Adjustments can be made to the maximum amount of reduction a person can receive to take account of adults living in the dwelling who are not dependants of the applicant and who are therefore assumed to make a financial contribution to the household (non-dependant deductions).
- 4.12 Adjustments can also be made to take into account of savings. If an applicant has capital of £6,000 (or £10,000 for pension age claimants) or less, this will be ignored when working out whether they are entitled to a reduction.
- 4.13 If a working-age applicant has capital of between £6,000 and £10,000, the local authority will treat it as income. This is known as tariff income. The local authority will assume an applicant has an income of £1 a week for each £500 of capital between £6,000 and £10,000. This will be added to other income to work out whether an applicant is entitled to a reduction and how much they are entitled to.

Uprating figures for 2019-20

- 4.14 This statutory instrument amends the 2013 CTRS Regulations to uprate financial figures used to calculate entitlement to a reduction in line with Welsh Government policy.
- 4.15 The statutory instrument seeks to uprate a number of other figures included in the 2013 CTRS Regulations. These include:
- Personal allowances in relation to working age, and carer and disabled premiums
The financial figures in respect of these allowances have been amended and have increased in line with the cost of living rises. The convention is to uprate in line with the Consumer Price Index figure for September from the previous year (2017), which is 3.0%.
 - Personal allowances in relation to pensioners
The financial figures in respect of pensioner rates have been amended and are aligned with Housing Benefit. These have been calculated with assistance from the Department of Work and Pensions following the Chancellor's Autumn Budget 2017 and have been uprated by different mechanisms. For example, the Pension Credit standard minimum

guarantee is uprated by earnings, whereas the Additional Pension and increments are uprated by prices.

- Non-dependant deductions
The financial figures for the income bands and deductions made in relation to non-dependants will be uprated. If amendments are not made, the deductions from CTRS awards would not be appropriate as the income thresholds would no longer reflect average earnings and the deduction would no longer reflect the overall cost of council tax.

Bereavement Support Payments

4.16 A social security benefit called Bereavement Support Payment (BSP) was introduced for surviving spouses and civil partners who are widowed after April 2017. Unlike previous bereavement benefits which can be paid for as long as the applicant satisfies the conditions of entitlement, BSP is only payable for a maximum period of up to 18 months from the date the spouse or civil partner died. The amendments made to the 2019 Regulations ensure that various payments of BSP are disregarded in the calculation of income so that:

- The initial larger payment and any arrears which are included in the first monthly payment are treated as capital, and a 12-month disregard is applied from the date of payment, to allow for sufficient time for monies to be spent by the recipient;
- Subsequent smaller monthly payments (except for arrears) are treated as income and disregarded for a month.

Additional Consequential Amendments

4.17 In addition to uprating the financial figures, this statutory instrument makes a number of consequential amendments to the 2013 CTRS Regulations. These ensure the 2013 Regulations remain up-to-date and fit for purpose.

Transfer of Name and Functions to Secretary of State

4.18 The Secretaries of State for Health and Social Care and for Housing, Communities and Local Government and Transfer of Functions (Commonhold Land) Order 2018 changes the name of the Secretary of State for Health to the Secretary of State for Health and Social Care and transfers functions from the Secretary of State for Housing, Communities and Local Government.

4.19 This statutory instrument makes consequential changes to the 2013 CTRS Regulations to reflect the change in name and transfer of functions.

Disregards for Members of a Couple

4.20 ESA is an income-replacement benefit for people of working age who cannot work because of a health condition or disability. Universal Credit provides a

new single system of means-tested support for people of working age who are either in or out of work. UC is gradually replacing income-based ESA as it is rolled out across the UK.

- 4.21 In the Summer Budget 2015, it was announced that the Work-Related Activity Component paid to those in the ESA (Work-Related Activity Group) (WRAG) would be abolished for new claims from 3 April 2017. The equivalent element in UC will also be abolished. However, there will be some ESA cases after April who will continue to have access to the Work-Related Activity Component.
- 4.22 The 2013 Regulations make provision for a number of payments to be disregarded for the purposes of calculating income and/or capital. The amendments to the 2019 Regulations are intended to clarify the qualifying conditions for a disregard when an applicant is a member of a couple so that the person working must also be the person who meets the qualifying conditions by being the person who is:
- entitled to a disability premium, or
 - is receiving the support component as part of their award of ESA, or
 - is in the work-related activity group for ESA.

Non-dependant deductions

- 4.23 The 2013 Regulations make provision for deductions to be made when calculating the maximum council tax reduction a person will be entitled to including deductions for non-dependants who live with the applicant. However, further provision is made for certain non-dependants. The 2019 Regulations clarify the position in respect of non-pensioners so that that no deduction will occur where a non-dependant is not in the work related activity group and is in receipt of certain benefits (income support, state pension credit, income-based JSA or income related ESA). This mirrors provision made in the Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (Wales) (Amendment) Regulations 2018 concerning pensioners.

The Regulation and Inspection of Social Care (Wales) Act 2016

- 4.24 Part 1 of the Regulation and Inspection of Social Care (Wales) Act 2016 replaces the regime for the regulation and inspection of social care settings under the Care Standards Act 2000. Part 1 of the 2016 Act was commenced in respect of the following services in April 2018:
- A care home service
 - A secure accommodation service
 - A residential family service and
 - A domiciliary support service.
- 4.25 In April 2019, Part 1 will be commenced in respect of a fostering service. The process for approving foster parents is set out in the Fostering Services (Wales) Regulations 2003. However, in consequence of the commencement of Part 1, those Regulations may be replaced by further regulations made

pursuant to sections 87 and 93 of the Social Services and Well-being (Wales) Act 2014 during the next financial year.

4.26 In calculating income for the purposes of determining eligibility for a council tax reduction, the 2013 Regulations make provision for relevant childcare charges to be deducted from earnings including charges where the childcare is provided by a foster parents or a kinship carer who has been approved as such under the 2003 Regulations. The amendments in the 2019 Regulations ensure that foster parents approved under the current scheme set out in the 2003 Regulations or under any regulations made pursuant to sections 87 and 93 of the 2014 Act will be subject to provision made in the 2013 Regulations in respect of the treatment of childcare charges.

Regulatory Impact Assessment (RIA)

Options

Option 1 – Do nothing

- 1 If the financial figures used to assess household allowances in the council tax reduction means-test remained static, the criteria used would be slightly less generous for non-passported applicants and lead to a small decrease in support in real terms.
- 2 The financial figures used to assess the eligibility of households with non-dependants would be out-of-date. The income thresholds would no longer reflect average earnings and the adjustment made to the final council tax reduction would no longer reflect overall cost of council tax.
- 3 It would also mean that consequential amendments would not be made to the 2013 CTRS Regulations to take account of changes to related welfare benefits and other legislation. This could disadvantage some applicants by reducing or stopping their entitlement to support. It could also create confusion for applicants and increase the administrative burden for local authorities and advice providers.

Option 2 – Make amending Regulations

- 4 This option would mean that amendments would be made to uprate the financial figures in the 2013 CTRS Regulations in line with to Welsh Government policy, cost-of-living increases and changes to qualifying benefits.
- 5 The financial figures in relation to working age, disability or carer rates will continue to increase with the cost of living (2.4%, as measured by CPI) for 2019-20. The personal allowances for pensioners will be uprated to align with those for Housing Benefit and the benefit system. The increase would be aligned to the UK Government's Standard Minimum Guarantee and Savings Credit.
- 6 The financial figures used to calculate the adjustment for non-dependant deductions would be uprated. The income thresholds in relation to non-dependants would be uprated to reflect average earnings and the non-dependant deduction from CTRS would reflect the average increase in council tax.

Costs and Benefits

Costs

Option 1 – Do nothing

- 7 If the financial figures for working age and pensioner allowances do not increase with the cost of living (as measured by CPI), CTRS recipients would be slightly worse off in real terms.
- 8 The financial figures used to assess the eligibility of households with non-dependants would also be out-of-date. The calculation would no longer make a fair assessment of the income of non-dependants or the overall cost of council tax. There is a risk that this aspect of the scheme would be viewed as unfair or inequitable.
- 9 If the technical and consequential amendments to the 2013 CTRS Regulations are not made, they would no longer align with Housing Benefit provisions or other related benefits. It would lead to references being out of sync with the overall benefits system and could disadvantage certain applicants by reducing their entitlement to support. This could potentially lead to additional administrative burden on local authorities and advice providers. It may also lead to confusion for some applicants who, as a result, could be treated significantly differently under benefit schemes.

Benefits

- 10 Not uprating pensioner and working age figures would help to limit any increases in total reductions under CTRS. However not uprating figures in relation to non-dependant deductions, would result in council tax reductions for relevant households being higher than they would otherwise be.

Option 2 – Make amending Regulations

Costs

- 11 Uprating the financial figures in respect of pensioners and working age allowances would slightly increase total reductions under CTRS. However, if the financial figures in relation to non-dependant deductions were also uprated, this would mitigate some of the increase in total reductions. Consequently, total council tax reductions are not expected to rise significantly as a result of the uprating.

Benefits

- 12 Uprating the financial figures in the 2013 CTRS Regulations will ensure that the personal allowance for working age applicants continues to increase in line with the CPI (2.4%).

- 13 Uprating the financial figures in respect of the personal allowance for pensioners continues to increase in line with the standard minimum guarantee and savings credit.
- 14 If the financial figures in relation to non-dependant deduction rates are uprated, this will ensure the calculation used to assess the eligibility of non-dependant households remains up-to-date. The calculation would continue to make a fair assessment of the income of non-dependants and the cost of council tax. This will ensure the system remains fair and equitable.
- 15 As part of these Regulations, consequential and technical amendments are made that are associated with wider welfare changes made by the UK government. This would ensure CTRS reflects changes made to interrelated social security benefits which often determine entitlement to a reduction. It would also avoid any additional administrative burden for local authorities or advice providers arising from managing different regimes.

Sectors

- 16 Local government and the voluntary sector were consulted during the development of proposals to introduce CTRS in Wales. Draft regulations for 2019-20 have been shared with local authorities.
- 17 This legislation will not affect the business sector.

Duties

- 18 In drafting these Regulations consideration has been given to the duty on Welsh Ministers to promote equality and eliminate discrimination.
- 19 An Equality Impact Assessment was completed for the introduction of the 2013 CTRS Regulations.
- 20 This statutory instrument is provided bilingually. CTRS is implemented and operated by local authorities who are under general duties to comply with Welsh language and sustainable development duties.
- 21 Further consideration has been given as to whether CTRS could be used to improve the opportunities of persons to use the Welsh language treating the Welsh language no less favourably than the English language. As the sole purpose of CTRS is to provide support to low-income households in meeting their council tax liability, it is considered there are no such opportunities.
- 22 Maintaining full entitlements to CTRS will continue to help low-income households in meeting their council tax liability and, as such, will contribute to the Welsh Government's commitment to make council tax fairer.

Competition Assessment

- 23 These Regulations have been scored against the competition filter test which indicated that there will be no detrimental effect on competition.

Consultation

- 24 No consultation has been undertaken in respect of this statutory instrument. The 2013 CTRS Regulations were consulted upon and details are provided in the Regulatory Impact Assessments accompanying those Regulations.

Post implementation review

- 25 Amendments are required on an annual basis to uprate the financial figures used to calculate entitlements to reductions. This provides an opportunity to review the legislation.

SL(5)284 - Rheoliadau Sŵn Amgylcheddol (Cymru) (Diwygio) 2018

Cefndir a Diben

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Sŵn Amgylcheddol (Cymru) 2006 er mwyn ei gwneud yn ofynnol i Weinidogion Cymru a gweithredwyr meysydd awyr heb eu dynodi (nad oes dim un yng Nghymru ar hyn o bryd) ddefnyddio'r dulliau asesu a nodir yn Atodiad II i Gyfarwyddeb 2002/49/EC Senedd Ewrop a'r Cyngor ar 25 Mehefin 2002 yn ymwneud ag asesu a rheoli sŵn amgylcheddol.

Disodlwyd Cyfarwyddeb 2002 gan yr Atodiad i Gyfarwyddeb y Comisiwn 2015/996, sydd wedi sefydlu dulliau asesu sŵn cyffredin wrth baratoi mapiau sŵn strategol o dan Reoliadau 2006.

Y weithdrefn

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

Mae'r Rheoliadau hyn yn gweithredu ac yn gorfodi rhwymedigaethau'r UE o ran sŵn amgylcheddol.

Mae'r Rheoliadau hyn yn rhan o "ddeddfwriaeth ddomestig sy'n deillio o'r UE" o dan adran 2 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, felly bydd y Rheoliadau hyn yn cael eu cadw fel cyfraith ddomestig a byddant yn parhau i fod mewn grym yng Nghymru ar ôl y diwrnod ymadael.

Ymateb y Llywodraeth

Nid oes angen ymateb y llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

29 Tachwedd 2018



Eitem 5.2

SL(5)286 – Rheoliadau yr Amgylchedd, Cynllunio a Materion Gwledig (Diwygiadau Amrywiol) (Cymru) 2018

Cefndir a Diben

Mae'r Rheoliadau hyn yn gwneud nifer o ddiwygiadau technegol i nifer o offerynnau statudol sy'n ymwneud â chynllunio, amaethyddiaeth, iechyd anifeiliaid, pysgodfeydd a'r amgylchedd ac nid ydynt yn cyflwyno unrhyw newidiadau polisi.

Y weithdrefn

Negyddol

Materion technegol: craffu

Ni nodir unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

Rhinweddau: craffu

Ni nodir 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'r Rheoliadau hyn yn cywiro cyfeiriadau sydd wedi dyddio at ddeddfwriaeth Ewropeaidd a deddfwriaeth ddomestig cyn i'r DU ymadael â'r UE.

Fel y nodir ym mharagraff 4 o'r Memorandwm Esboniadol (Saesneg yn unig), "the technical changes made by these Regulations are necessary to ensure the effective and correct functioning of the statute book following the UK's exit from the EU. The amendments include updating references to European and domestic legislation, minor drafting corrections and the revocation of legislation which is no longer applicable".

Ymateb y Llywodraeth

Nid oes angen ymateb y llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

27 Tachwedd 2018





Ein cyf: MA - L/LG/0758/18

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

SeneddCLA@cynulliad.cymru

26 Tachwedd 2018

Annwyl Mick

Diben y llythyr hwn yw'ch hysbysu fy mod wedi cyflwyno Memorandwm Cydsyniad Offeryn Statudol yng Nghynulliad Cenedlaethol Cymru yn ymwneud â Rheoliadau'r Amgylchedd Morol (Diwygio) (Ymadael â'r UE) 2018, yn unol â gofyniad Rheol Sefydlog 30A.

Rwy'n ysgrifennu i'ch hysbysu nad wyf yn bwriadu cyflwyno cynnig i drafod yr OS hwn yn yr achos hwn. Rwyf wedi dod i'r penderfyniad hwn ar sail y ffaith fod ein diddordeb yn yr OS hwn wedi'i gyfyngu i welliannau gweithredol a fydd yn deillio o ymadawiad y DU â'r UE.

Mae darpariaeth yr OS yn cynnwys gwelliannau gweithredol mewn perthynas â Deddf y Môr a Mynediad i'r Arfordir 2009, ac nid oes unrhyw wahaniaeth rhwng polisi Llywodraeth Cymru a pholisi Llywodraeth y DU yn yr achos hwn.

O ystyried swm mawr y ddeddfwriaeth y mae'r Cynulliad yn ei hystyried, nid wyf yn credu y byddai dadl ar yr OS hwn yn ddefnydd cynhyrchiol o amser pwysig y Cyfarfod Llawn. Fodd bynnag, mae Rheol Sefydlog 30A yn datgan bod unrhyw aelod yn gallu cyflwyno cynnig ar gyfer dadl ar yr OS hwn, a byddwn yn hapus i gymryd rhan mewn dadl o'r fath.

Cofion

Lesley Griffiths AC
Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig



Llywodraeth Cymru
Welsh Government

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL Rheoliadau'r Amgylchedd Morol (Diwygio) (Ymadael â'r UE) 2018

DYDDIAD 26 Tachwedd 2018

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

Rheoliadau'r Amgylchedd Morol (Diwygio) (Ymadael â'r UE) 2018

Y Gyfraith sy'n cael ei diwygio

- Penderfyniad y Comisiwn 2017/848
- Cyfarwydddeb Fframwaith y Strategaeth Forol 2008/56

Deddfwriaeth Ddomestig

- Deddf y Môr a Mynediad i'r Arfordir 2009
- Rheoliadau'r Strategaeth Forol 2010

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

Mae gan Gynulliad Cenedlaethol Cymru a Gweinidogion Cymru rywfaint o gymhwysedd deddfwriaethol a gweithredol mewn perthynas â'r amgylchedd morol.

Mae swyddogaethau o fewn Penderfyniad y Comisiwn (EU) 2017/848 wedi'u trosglwyddo fel bod modd i'r Ysgrifennydd Gwladol yn unig eu harfer, ond gyda chydysyniad Gweinidogion Cymru, Prif Weinidog Cymru neu'r Cwnsler Cyffredinol o dan amgylchiadau penodedig.

Byddai swyddogaethau a drosglwyddir i'r Ysgrifennydd Gwladol â chydysyniad yn gyfystyr â swyddogaethau un o Weinidogion y Goron at ddibenion Atodlen 7B i Ddeddf Llywodraeth Cymru 2006. Gallai Bil Cynulliad yn y dyfodol yn ceisio gwaredu neu addasu'r swyddogaethau hyn greu gofyniad i ymgynghori â Llywodraeth y DU.

Diben y diwygiadau

Mae Rheoliadau'r Amgylchedd Morol (Diwygio) (Ymadael â'r UE) 2018 yn sicrhau bod y ddeddfwriaeth bresennol yn parhau i weithredu'n effeithiol ar ôl i ni ymadael â'r UE. Mae'r newidiadau'n cynnwys newid cyfeiriadau at "Aelod-Wladwriaethau" i gyfeiriadau at y DU neu at gorff priodol o fewn y DU, newid cyfeiriadau at "deddfwriaeth Gymunedol" neu "gyfraith

yr UE" i gyfeiriadau at "gyfraith yr UE a ddargedwir", a newid y gofynion i hysbysu'r Comisiwn neu adrodd wrtho i ofynion i adrodd yn gyhoeddus. Mae'r newidiadau hefyd yn sicrhau y bydd croes gyfeiriadau at Gyfarwyddeb Fframwaith y Strategaeth Forol a deddfwriaeth arall yr UE yn parhau i weithio ar ôl i'r DU ymadael â'r UE.

Mae'r OS a'r Memorandwm Esboniadol sy'n mynd gydag ef, ac sy'n nodi effaith pob un o'r diwygiadau, ar gael yma: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-marine-environment-amendment-eu-exit-regulations-2018>

Pam y rhoddwyd cydsyniad

Rhoddwyd cydsyniad i Lywodraeth y DU wneud y cywiriadau hyn o ran ac ar ran Cymru, am resymau'n ymwneud ag effeithlonrwydd, hwylustod ac oherwydd natur dechnegol y diwygiadau. Mae'r diwygiadau wedi cael eu hystyried yn llawn; ac nid oes unrhyw wahaniaeth o ran polisi. Diben y diwygiadau hyn yw sicrhau bod y llyfr statud yn parhau i weithio ar ôl i'r DU ymadael â'r UE. Mae hyn yn unol â'r egwyddorion ar gyfer cywiro y cytunwyd arnynt ym mis Mai gan Is-bwyllgor y Cabinet ar Bontio Ewropeaidd.

Mae Memorandwm Cydsyniad Offeryn Statudol hefyd wedi'i osod yn y Cynulliad Cenedlaethol mewn perthynas â'r diwygiadau i Deddf y Môr a Mynediad i'r Arfordir 2009

MEMORANDWM CYDSYNIAD OFFERYN STATUDOL

Rheoliadau'r Amgylchedd Morol (Diwygio) (Ymadael â'r UE) 2018

1. Cyflwynir y Memorandwm Cydsyniad Offeryn Statudol hwn o dan Reol Sefydlog 30A.2. Mae Rheol Sefydlog 30A yn nodi bod yn rhaid cyflwyno Memorandwm Cydsyniad Offeryn Statudol a bod modd cyflwyno Cynnig Cydsyniad Offeryn Statudol gerbron Cynulliad Cenedlaethol Cymru ("y Cynulliad") os yw Offeryn Statudol (OS) y DU yn gwneud darpariaeth mewn perthynas â Chymru yn diwygio deddfwriaeth sylfaenol yn unol â chymhwysedd deddfwriaethol y Cynulliad.
2. Cyflwynwyd Rheoliadau'r Amgylchedd Morol (Diwygio) (Ymadael â'r UE) 2018 ("Rheoliadau 2018") gerbron y pwyllgorau sifftio yn nau Dŷ'r Senedd ar 20 Tachwedd 2018. Mae'r Rheoliadau ar gael yn:

<https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-marine-environment-amendment-eu-exit-regulations-2018>

Crynodeb o'r Offeryn Statudol a'i amcan

3. Amcan yr OS yw mynd i'r afael â methiannau cyfraith yr UE a ddargedwir i weithredu'n effeithiol, a diffygion eraill sy'n deillio o'r DU yn ymadael â'r Undeb Ewropeaidd fel y darperir ar eu cyfer gan Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018. Hefyd, mae'n cynnwys diwygiadau gweithredol.
4. Yn ogystal, mae'r OS yn diwygio:
 - Deddf y Môr a Mynediad i'r Arfordir 2009 ("Deddf 2009")

Darpariaeth berthnasol i'w gwneud gan yr OS

5. Mae'r gwelliannau a wnaed i Ddeddf 2009 gan Reoliadau 2018 yn ymwneud â'r darpariaethau canlynol:
 - a) Adran 60(8) i adlewyrchu gwelliannau i deddfwriaeth datganoli'r Alban o dan Ran 3 o Atodlen 3 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.
 - b) Adran 76(2) i sicrhau bod modd gweithredu'r darpariaethau ar ôl ymadael â'r Undeb Ewropeaidd.
 - c) Adran 123(5) i sicrhau bod modd gweithredu'r darpariaethau ar ôl ymadael â'r Undeb Ewropeaidd.
 - d) Adran 141 yn dileu'r diffiniad o 'third country vessel.'
 - e) Adran 244 yn darparu y bydd llongau Aelod-wladwriaethau'r UE a llongau o Gibraltar yn cael eu trin fel llongau o drydedd wlad.

6. Mae'r newidiadau a nodir ym mharagraff 4.3 (c) i (e) yn ymwneud â swyddogaethau sydd o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru, a allai fod yn destun Bil y Cynulliad Cenedlaethol.
7. Mae gan Gynulliad Cenedlaethol Cymru rywffaint o gymhwysedd deddfwriaethol ar gyfer yr amgylchedd morol yng Nghymru, yn amodol ar faterion a gedwir yn ôl fel morgludiant, olew a nwy. Hefyd, mae gan Weinidogion Cymru swyddogaethau gweithredol yn ymwneud â Chymru yn unol ag adran 58B o Ddeddf Llywodraeth Cymru 2006 (dynodiad at ddibenion a.2(2) Deddf y Cymunedau Ewropeaidd 1972 yn y meysydd hynny lle mae gan Gynulliad Cenedlaethol Cymru gymhwysedd deddfwriaethol yn yr amgylchedd morol). Mae gan Weinidogion Cymru swyddogaethau gweithredol amrywiol eraill o dan nifer o ddeddfiadau yn ymwneud â Chymru a Pharth Cymru.

Pam y mae'n briodol i'r OS wneud y ddarpariaeth hon?

8. Nid oes unrhyw wahaniaeth rhwng Llywodraeth Cymru a Llywodraeth y DU ynglŷn â'r polisi unioni. Felly, byddai llunio OS gwahanol yng Nghymru a Lloegr er mwyn unioni'r cyfeiriad perthnasol yn arwain at ddyblygiad a chymhlethdod diangen o'r llyfr statud. Trwy gydsynio i'r OS hwn, bydd modd sicrhau bod un fframwaith deddfwriaethol ar waith ledled Cymru a Lloegr, sy'n hyrwyddo eglurder a hygyrchedd yn ystod y cyfnod hwn o newid. O dan yr amgylchiadau eithriadol hyn, mae Llywodraeth Cymru yn credu ei bod yn briodol i Lywodraeth y DU ddeddfu ar ein rhan yn yr achos hwn.

Lesley Griffiths AC
Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig

26 Tachwedd 2018

2018 No. 000

EXITING THE EUROPEAN UNION

ENVIRONMENTAL PROTECTION

MARINE MANAGEMENT

**The Marine Environment (Amendment) (EU Exit) Regulations
2018**

Sift requirements satisfied ***

Made - - - - ***

Laid before Parliament ***

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018^(a).

The requirements of paragraph 3(2) of Schedule 7 to that Act (relating to the appropriate Parliamentary procedure for these Regulations) have been satisfied.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the Marine Environment (Amendment) (EU Exit) Regulations 2018 and come into force on exit day.

PART 2

Amendment of primary legislation

Amendment of the Marine and Coastal Access Act 2009

2.—(1) The Marine and Coastal Access Act 2009^(b) is amended as follows.

(a) 2018 c.16.

(b) 2009 c.23. Sections 60(8) and 76 were amended by S.I. 2011/1043.

- (2) In section 60(8)—
- (a) omit paragraph (a);
 - (b) for paragraph (b) substitute—
 - “(b) functions under section 58 of the Scotland Act 1998 (c. 46) (international obligations);”(a);
 - (c) in paragraph (d)—
 - (i) omit “, or paragraph 5 of Schedule 3 to,”;
 - (ii) for “(EU obligations)” substitute “(retained EU obligations)”.
- (3) In section 76(2)(a), for the words from “under EU law” to “(c. 46)” substitute “exercisable under retained EU law”.
- (4) In section 123(5), for “obligations under EU or international law” substitute “retained EU obligations or obligations under international law”.
- (5) In section 141—
- (a) omit subsection (6);
 - (b) in subsection (7), omit the definition of “third country vessel”.
- (6) In section 244(1), in the definition of “third country vessel”—
- (a) in paragraph (a), for “(other than Gibraltar) which is not a member State” substitute “other than the United Kingdom”;
 - (b) in paragraph (b), for “a member State” substitute “the United Kingdom”.

PART 3

Amendment of subordinate legislation

Amendment of the Marine Strategy Regulations 2010

3.—(1) The Marine Strategy Regulations 2010(b) are amended as follows.

- (2) In regulation 2—
- (a) in paragraph (1)—
 - (i) omit the definition of “the Commission”;
 - (ii) in the definition of “devolved policy authority”, for “and” substitute “or”;
 - (b) in paragraph (4), for “as amended from time to time” substitute “as it had effect immediately before exit day”;
 - (c) after paragraph (4) insert—
 - “(5) For the purposes of any reference to an Article or an Annex of the Directive, the Article or Annex is to be read—
 - (a) subject to the modifications specified in Schedule 3; and
 - (b) as if—
 - (i) references to “Member State” or “Member States” (except in Articles 20 to 22) included a reference to the United Kingdom; and
 - (ii) references to “Community legislation” or “existing Community legislation” were, in relation to the United Kingdom, references to retained EU law.
- (6) Any reference in these Regulations to “the requirements of the Directive” is a reference to the requirements of the Directive in so far as any such requirements are not

(a) Section 58 was amended by section 12(2)(a) of the Scotland Act 2012 (c.11).

(b) S.I. 2010/1627; the relevant amending instruments are S.I. 2018/287, 942.

reflected in any provision of these Regulations or by Commission Decision (EU) 2017/848 laying down criteria and methodological standards on good environmental status of marine waters and specifications and standardised methods for monitoring and assessment, and read—

- (a) as if they applied in relation to the United Kingdom as they apply in relation to a member State;
- (b) with the omission of any requirement to provide any information or other matter to the European Commission (however expressed), or any rights of access to or use of any information;
- (c) subject to the modifications specified in Schedule 3.”.

(3) In regulation 5(1), after “must” insert “, in accordance with the requirements of Commission Decision (EU) 2017/848,”.

(4) In regulation 6(1)(c), after “with” insert “the requirements of”.

(5) In regulation 8(2) and (3), for “implementing”, in both places where it occurs, substitute “giving effect to the requirements of”.

(6) In regulation 14, after paragraph (13) insert—

“(14) The competent authority must publish a report describing the progress made in implementing the programme of measures within 3 years of any update to that programme.”

(7) In regulation 15—

(a) in paragraphs (4)(b), (6) and (7), omit “other” in each place where it occurs;

(b) for paragraph (9) substitute—

“(9) The competent authority must—

- (a) prepare a report setting out the justification for any such cases identified; and
- (b) publish that report as soon as reasonably practicable in a form accessible to the public.”;

(c) for paragraph (11)(a) substitute—

“(a) the competent authority must—

- (i) prepare a report setting out the necessary justification; and
- (ii) publish that report as soon as reasonably practicable in a form accessible to the public.”.

(8) In regulation 16, for “any other EU instrument” substitute “by any provision of retained EU law other than these Regulations”.

(9) Omit regulation 17.

(10) In regulation 18—

(a) in paragraph (3)—

- (i) after “The competent authority” insert “, when consulting under paragraph (1), and the Secretary of State, when consulting under paragraph (2),”;
- (ii) in sub-paragraph (a), for “its proposal” substitute “the proposal”;

(b) in paragraph (4)—

- (i) after “The competent authority” insert “or the Secretary of State, as the case may be,”;
- (ii) after “they” insert “respectively”;

(c) in paragraph (5), after “consultation” insert “under paragraph (1)”;

(d) in paragraph (6), after “consultation” insert “under paragraph (1) or (2)”;

(e) in paragraph (7), for the words before sub-paragraph (a) substitute—

“After taking any decision in relation to a proposal following a consultation on that proposal, the competent authority or the Secretary of State, as the case may be, must publish a report in respect of that decision, which must—”;

(f) in paragraph (8), after “OSPAR Commission” insert “(the Commission established by Article 10 of the Convention for the Protection of the Marine Environment of the North-East Atlantic)”.

(11) In regulation 19—

(a) in paragraph (1), for “implementing” substitute “giving effect to the requirements of”;

(b) in paragraph (8)(a), after “giving effect to the” insert “requirements of the”.

(12) In regulation 20(1), after “of the” insert “requirements of the”.

(13) In Schedule 1—

(a) in Part 1, in paragraph 5—

(i) omit sub-paragraph (a);

(ii) for sub-paragraph (b) substitute—

“(b) functions under section 58 of the Scotland Act 1998 (international obligations);”;

(iii) in sub-paragraph (d)—

(aa) omit “, or paragraph (5) of Schedule 3 to,”;

(bb) for “(Community obligations)” substitute “(retained EU obligations)”;

(b) in Part 2, omit the definition of “regional cooperation”.

(14) After Schedule 2 insert Schedule 3, as set out in Schedule 1.

Amendment of the Marine Licensing (Exempted Activities) Order 2011

4.—(1) The Marine Licensing (Exempted Activities) Order 2011(a) is amended as follows.

(2) In article 37(2)—

(a) in sub-paragraph (a), for “(other than Gibraltar) which is not a member State” substitute “other than the United Kingdom”;

(b) in sub-paragraph (b), for “a member State” substitute “the United Kingdom”.

PART 4

Amendment of retained direct EU legislation

Amendment of Commission Decision (EU) 2017/848

5.—(1) Commission Decision (EU) 2017/848 laying down criteria and methodological standards on good environmental status of marine waters and specifications and standardised methods for monitoring and assessment is amended in accordance with paragraph (2) and regulations 6 to 12.

(2) Except where otherwise indicated in regulations 6 to 12, for references to “Member States” substitute “the Secretary of State, in consultation with the devolved policy authorities,”.

Amendment of Article 1

6.—(1) Article 1 is amended as follows.

(2) The first paragraph is renumbered paragraph 1.

(a) S.I. 2011/409; to which there is an amendment not relevant to these Regulations.

- (3) In point (b), for “Member States” substitute “the competent authorities”.
- (4) In point (c), omit “Union, ”.
- (5) After point (d) insert—

“2. Regulation 7(3) of the Marine Strategy Regulations 2010^(a) applies for the purposes of any function conferred by this Decision as it applies for the purposes of the adoption or revision of any element of the marine strategy.”.

Amendment of Article 2

7.—(1) Article 2 is amended as follows.

- (2) In the heading, at the end insert “and interpretation”.
- (3) The first paragraph is renumbered paragraph 1.
- (4) In the first paragraph, for “laid down in Article 3 of Directive 2008/56/EC shall apply” substitute “in regulation 3 (meaning of the “marine strategy area” and “marine waters”) of, and Part 2 of Schedule 1 to, the Marine Strategy Regulations 2010 apply”.
- (5) The second paragraph is renumbered paragraph 2.
- (6) In the second paragraph, after point (5) insert—

“(6) “regional sea convention” means any of the international conventions or international agreements together with their governing bodies established for the purpose of protecting the marine environment of the marine regions referred to in Article 4, such as the Convention on the Protection of the Marine Environment of the Baltic Sea, the Convention for the Protection of the Marine Environment of the North-east Atlantic and the Convention for the Marine Environment and the Coastal Region of the Mediterranean Sea.

(7) “regional cooperation” means cooperation and coordination of activities between the United Kingdom and, whenever possible, other countries sharing the same marine region or subregion, for the purpose of developing and implementing marine strategies.

(8) “competent authority” has the meaning given by regulation 2(1) of the Marine Strategy Regulations 2010.

(9) “devolved policy authority” has the meaning given by regulation 2(1) of the Marine Strategy Regulations 2010.”.

- (7) After the second paragraph insert—

“3. For the purposes of any reference to Directive 2008/56/EC, or to any Article or Annex of that Directive, that Directive, or the Article or Annex, is to be read subject to the modifications specified in Annex 2 and as if—

- (a) references to “Member State” or “Member States” (except in Articles 20 to 22) included a reference to the United Kingdom; and
- (b) references to “Community legislation” or “existing Community legislation” were, in relation to the United Kingdom, references to retained EU law.”.

Amendment of Article 3

8.—(1) Article 3 is amended as follows.

- (2) For “the Annex”, in each place where it occurs, substitute “Annex 1”.
- (3) In paragraph 1—
 - (a) in the first subparagraph—
 - (i) for “Member States”, in the first place where it occurs, substitute “The competent authorities”;

(a) S.I. 2010/1627.

- (ii) for the final sentence substitute—
 “In such cases, the Secretary of State shall provide a justification for that opinion in any report provided pursuant to regulation 18(7) of the Marine Strategy Regulations 2010.”;
- (b) in the second subparagraph—
 - (i) for “a Member State” substitute “the Secretary of State”;
 - (ii) omit “other”.
- (4) In paragraph 2, for “each Member State” substitute “the Secretary of State, in consultation with the devolved policy authorities,”.
- (5) In paragraph 4—
 - (a) omit “Union,”;
 - (b) for “Member States” substitute “the competent authorities”.

Amendment of Article 4

- 9.**—(1) Article 4 is amended as follows.
- (2) In the heading, omit “Union,”.
 - (3) In paragraph 1—
 - (a) in the words before point (a)—
 - (i) for “are” substitute “is”;
 - (ii) omit “Union,”;
 - (b) in point (b), for “Union legislation” substitute “retained EU law”.
 - (4) In paragraph 2—
 - (a) for “have” substitute “has”;
 - (b) omit “Union,”;
 - (c) for “they” substitute “the Secretary of State, in consultation with the devolved policy authorities,”.
 - (5) In paragraph 3—
 - (a) omit “by Member States”;
 - (b) for “that Member State” substitute “the Secretary of State, in consultation with the devolved policy authorities,”;
 - (c) for “Member States”, in the second place where it occurs, substitute “the competent authority”.
 - (6) In paragraph 4—
 - (a) omit “by Member States”;
 - (b) for “Article 17(2)(a) of Directive 2008/56/EC” substitute “regulations 10(2) and 11(4) of the Marine Strategy Regulations 2010”.

Amendment of Article 5

- 10.**—(1) Article 5 is amended as follows.
- (2) In paragraph 1—
 - (a) omit “Union,”;
 - (b) for “Article 17(2)(a) of Directive 2008/56/EC” substitute “regulations 10(2) and 11(4) of the Marine Strategy Regulations 2010”.
 - (3) In paragraph 2—
 - (a) for “are” substitute “is”;
 - (b) omit “Union,”;

- (c) omit from “, on the condition that” to the end.

Amendment of Article 6

11.—(1) Article 6 is amended as follows.

(2) For the words from “Each Member State” to “Article 17(3) of Directive 2008/56/EC” substitute, “The Secretary of State shall specify, as part of the report made pursuant to regulation 18(7) of the Marine Strategy Regulations 2010”.

(3) Omit “Union, ”.

Amendment of the Annex and insertion of Annex 2

12.—(1) The Annex is renumbered Annex 1.

(2) The Annex is amended as follows—

(a) in the words before Part 1 of the Annex, for “Member States”, in both places where it occurs, substitute “the Secretary of State”;

(b) Part 1 of the Annex is amended as set out in Schedule 2;

(c) Part 2 of the Annex is amended as set out in Schedule 3.

(3) After the Annex insert Annex 2, as set out in Schedule 4.

Date

Name
Parliamentary Under Secretary of State
Department for Food and Rural Affairs

SCHEDULE 1

Regulation 3(14)

NEW SCHEDULE 3 TO THE MARINE STRATEGY REGULATIONS 2010

“SCHEDULE 3

Regulation 2(5)(a)

Modification of Marine Strategy Framework Directive

1. Omit the following provisions—

- (a) in Article 4(2), the final subparagraph;
- (b) in Article 5(3), from “In these cases” to the end;
- (c) Article 7;
- (d) Article 9(2);
- (e) Article 10(2);
- (f) Article 11(3);
- (g) Article 12;
- (h) Article 13(9);
- (i) Article 15;
- (j) Article 16;
- (k) Article 18;
- (l) Article 23;

- (m) Article 24;
 - (n) Article 26;
 - (o) in Annex 1, the final sentence in the paragraph after point (11);
 - (p) Annex 2.
- 2.** In Article 3(9), for “third countries” substitute “other countries”.
- 3.** In Article 5(2), omit “for which Member States concerned endeavour to follow a common approach”.
- 4.** In Article 6(2)—
- (a) in the first subparagraph, for “third countries” substitute “other countries”;
 - (b) in the third subparagraph—
 - (i) after “Member States”, in the first place where it occurs, insert “and other countries”;
 - (ii) omit “in order to allow Member States”.
- 5.** In Article 8(2), after “in particular” insert “any enactment giving effect to”.
- 6.** In Article 9(3), omit—
- (a) “in accordance with the regulatory procedure with scrutiny referred to in Article 25(3)”;
 - (b) the final sentence.
- 7.** In Article 10(1), omit “, Community”.
- 8.** In Article 11—
- (a) in paragraph 1, omit “including the Habitats and Birds Directives”;
 - (b) in paragraph 4, omit “in accordance with the regulatory procedure with scrutiny referred to in Article 25(3)”.
- 9.** In Article 13—
- (a) in paragraph 2, for the words from “in particular Directive 2000/60/EC” to “forthcoming legislation on environmental quality standards in the field of water policy” substitute “(in particular in relation to water quality, including urban waste-water treatment and bathing water quality)”;
 - (b) in paragraph 3, omit “referred to in Article 7”;
 - (c) in paragraph 4—
 - (i) for “special areas of conservation pursuant to the Habitats Directive, special protection areas pursuant to the Birds Directive” substitute “special areas of conservation or special protection areas pursuant to retained EU law”;
 - (ii) for “Community or Members States concerned in the framework of international or regional agreements to which they are parties” substitute “United Kingdom in the framework of international or regional agreements to which it is a party”;
 - (d) in paragraph 5, omit—
 - (i) “Community or”;
 - (ii) “, individually or jointly,”;
 - (iii) “competent authority or”;
 - (e) in paragraph 10, omit “Subject to Article 16”.
- 10.** In Article 14—

- (a) in paragraph 1, in the second subparagraph, omit “and shall substantiate its views to the Commission”;
- (b) in paragraph 4, omit the second subparagraph.

11. In Article 17—

- (a) in paragraph 3—
 - (i) omit “to the Commission,”;
 - (ii) omit “and to any other Member State concerned”;
 - (iii) for “Article 19(2)” substitute “regulation 18(7) of the Marine Strategy Regulations 2010”;
- (b) omit paragraph 4.

12. In Article 19(3)—

- (a) in the first subparagraph, for “Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information” substitute “the retained EU law which transposed Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information”;
- (b) omit the second and third subparagraphs.

13. In Annex 3—

- (a) in the notes below Table 1, in Note 1 and Note 3, for “in accordance with Article 9(3)” substitute “in Commission Decision (EU) 2017/848 laying down criteria and methodological standards on good environmental status of marine waters and specifications and standardised methods for monitoring and assessment”;
- (b) in the notes below Table 2, in Note 3, for “in accordance with Article 9(3)” substitute “in Commission Decision (EU) 2017/848 laying down criteria and methodological standards on good environmental status of marine waters and specifications and standardised methods for monitoring and assessment”.

14. In Annex 4, in point (11), for “the Community and its Member States have committed themselves” substitute “the United Kingdom has committed itself”.

15. In Annex 5, in point (9), for “at Community level” substitute “at regional or subregional level”.

SCHEDULE 2

Regulation 12(2)(b)

AMENDMENT OF PART 1 OF THE ANNEX TO COMMISSION DECISION (EU) 2017/848

1. Under the heading “Descriptor 3”—

- (a) under the sub-heading “Criteria, including criteria elements, and methodological standards”—
 - (i) in the third column of the table, in point (a) under “Use of criteria”, for “agreed at Union level” substitute “jointly agreed by the competent authorities”;
 - (ii) in footnote (3) to that table, for “Article 17(2)(a) of Directive 2008/56/EC” substitute “Regulations 10(2) and 11(4) of the Marine Strategy Regulations 2010”;
- (b) under the sub-heading “Specifications and standardised methods for monitoring and assessment”—
 - (i) in paragraph 1—

- (aa) in the words before point (a), for “Council Regulation (EC) No 199/2008” substitute “Regulation (EU) 2017/1004 of the European Parliament and of the Council of 17 May 2017 on the establishment of a Union framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy”, and omit footnote (4);
- (bb) in point (b), for “by Council under Article 43(3) of the Treaty on the Functioning of the European Union” substitute “in relation to the United Kingdom and its exclusive economic zone”;
- (cc) omit point (c);
- (dd) omit point (e);
- (ii) for paragraph 2 substitute—

“2. Regulation (EU) 2017/1004 establishes a framework for the collection, management and use of data in the fisheries sector which shall be used for monitoring in Descriptor 3.”.

2. Under the heading “Descriptor 5”—

- (a) before “Directive 2000/60/EC”, in each place where it occurs (other than the second occurrence in paragraph 6, under the sub-heading “Specifications and standardised methods for monitoring and assessment”), insert “any enactment which gives effect to”;
- (b) under the sub-heading “Criteria, including criteria elements, and methodological standards”, in the third column of the table, in point (c) under “Use of criteria”, omit “where possible at Union level, but at least”;
- (c) under the sub-heading “Specifications and standardised methods for monitoring and assessment”—
 - (i) in paragraph 6—
 - (aa) for “Commission Decision 2013/480/EU” substitute “Commission Decision 2018/229 establishing, pursuant to Directive 2000/60/EC of the Parliament and of the Council, the values of the Member State monitoring system classifications as a result of the intercalibration exercise”, and omit footnote (6);
 - (bb) before “national” insert “the relevant”;
 - (ii) after paragraph 7 insert—

“8.—(1) This paragraph 8 has effect for the purposes of the reference in paragraph 6 to Article 8 of, and Annex 5 to, Directive 2000/60/EC.

(2) Article 8 of that Directive is to be read as if—

- (a) in paragraph 1—
 - (i) for “Member States” there were substituted “the United Kingdom”;
 - (ii) in the final indent, the reference to “Community legislation” were a reference to retained EU law;
- (b) in paragraph 2, in the second sentence, the reference to Annex 5 of Directive 2000/60/EC were a reference to that Annex as modified by paragraph 8(3) below;
- (c) in paragraph 3, the second sentence were omitted.

(3) Annex 5 of that Directive is to be read as if—

- (a) any reference to “Community legislation” were a reference to retained EU law;
- (b) references in tables 1.2.1 to 1.2.5 to Directive 91/414/EC, wherever they occur, were references to Regulation (EC) 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market;

- (c) references in tables 1.2.1 to 1.2.5 to Directive 98/8/EC, wherever they occur, were references to Regulation (EC) 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products;
- (d) in section 1.3.1, in the unnumbered paragraph headed “selection of monitoring points”, the fourth indent (referring to “the Information Exchange Decision 77/795/EEC”) were omitted;
- (e) in section 1.3.5, the reference to “the Drinking Water Directive” were a reference to retained EU law which transposed Directive 98/83/EC on the quality of water intended for human consumption;
- (f) in section 1.4.1—
 - (i) in point (iii), for the words from “shall be established” to the end there were substituted “are as set out in Commission Decision 2018/229 establishing, pursuant to Directive 2000/60/EC of the Parliament and of the Council, the values of the Member State monitoring system classifications as a result of the intercalibration exercise”;
 - (ii) points (iv) to (ix) were omitted;
- (g) in section 1.4.3, for the words “Annex IX, Article 16 and under other relevant Community legislation” there were substituted “Annex 1 to Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy and under other relevant retained EU law”;
- (h) in section 2.3.2, for “other relevant Community legislation in accordance with Article 17” there were substituted “retained EU law which transposed Directive 2006/118/EC of the European Parliament and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration(a)”;
- (i) in section 2.4.5—
 - (i) “Without prejudice to the Directives concerned” were omitted;
 - (ii) for “Article 17” there were substituted “retained EU law which transposed Directive 2006/118/EC”;
- (j) any reference to a “Member State” or “Member States” were a reference to the United Kingdom;
- (k) any reference to any Article or Annex of Directive 2000/60/EC were read in accordance with paragraph 8(4) below.
 - (4) For the purposes of paragraph 8(3)(k), any reference to any Article or Annex of Directive 2000/60/EC is to be read as if—
 - (a) any reference to a “Member State” or “Member States” were a reference to the United Kingdom;
 - (b) any reference to “Community legislation” were a reference to retained EU law;
 - (c) any reference to Article 8 were a reference to that Article as modified by paragraph 8(2) above;
 - (d) any reference to Article 13 were a reference to that Article except in so far as it gives rise to any obligation under Article 15;
 - (e) in Article 4—
 - (i) in paragraph 1—
 - (aa) in point (a)(iv), for “Article 16(1) and (8)” there were substituted “retained EU law which transposed Directive 2008/105/EC”;

(a) OJ No L 372, 27.12.2006, p 19, as last amended by Directive 2014/80/EU (OJ No L 182, 21.6.2014, p 52).

- (bb) in point (b)(iii), in the second subparagraph, for “paragraphs 2, 4 and 5 of Article 17” there were substituted “retained EU law which transposed Directive 2006/118/EC”;
- (ii) in paragraph 8, the reference to “other Community environmental legislation” were a reference to retained EU law relating to the environment;
- (iii) in paragraph 9, the reference to “existing Community legislation” were a reference to retained EU law which was in force before 23rd October 2000;
- (f) in Article 7(2)—
 - (i) for “at Community level under Article 16” there were substituted “by retained EU law which transposed Directive 2008/105/EC”;
 - (ii) for “Directive 80/778/EEC as amended by Directive 98/83/EC” there were substituted “retained EU law which transposed Directive 98/83/EC”;
- (g) in Article 11—
 - (i) in paragraph 3(a), for the words from “required to implement” to the end there were substituted “under retained EU law for the protection of water”;
 - (ii) in paragraph 3(j), in the fourth indent, for the words from “Directive” to the end there were substituted “Chapter 3 of Part 1 of the Energy Act 2008(a) and other retained EU law which transposed Directive 2009/31/EC on the geological storage of carbon dioxide”;
 - (iii) in paragraph 3(k)—
 - (aa) “in accordance with action taken pursuant to Article 16,” were omitted;
 - (bb) for “agreed pursuant to Article 16(2)” there were substituted “in Annex 10”;
 - (iv) in paragraph 6, the reference to “existing legislation” were a reference to retained EU law which was in force before 23rd October 2000;
- (h) in Annex 2—
 - (i) in section 1.1, point (vi) were omitted;
 - (ii) in section 1.4—
 - (aa) after “gathered under”, in both places where it occurs, there were inserted “retained EU law which transposed”;
 - (bb) in the second paragraph, in point (ii), the reference to “Articles 9 and 15 of Directive 96/61/EC” were a reference to retained EU law which transposed Articles 5(3), 14 and 24 of Directive 2010/75/EC of the European Parliament and of the Council on industrial emissions(b);
 - (cc) in the third paragraph, in point (iii), the reference to “Directive 98/8/EC” were a reference to Regulation (EC) No 528/2012 of the European Parliament and of the Council concerning the making available on the market and use of biocidal products.”.

3. Under the heading “Descriptor 6”, under the sub-heading “Specifications and standardised methods for monitoring and assessment”, in paragraph 1(c), before “Directive 2000/60/EC” insert “any enactment which gives effect to”.

4. Under the heading “Descriptor 7”, under the sub-heading “Specifications and standardised methods for monitoring and assessment”, in paragraph 1(c), before “Directive 2000/60/EC” insert “any enactment which gives effect to”.

5. Under the heading “Descriptor 8”—

(a) 2008 c.32.

(b) OJ No L 334, 17.12.2010, p 17, as last corrected by a corrigendum (OJ No L 158, 19.6.2012, p 25).

- (a) under the sub-heading “Criteria, including criteria elements, and methodological standards”, in the following places in the first row of the table, before “Directive 2000/60/EC” insert “any enactment which gives effect to”—
 - (i) in the first column, in point (1)(a);
 - (ii) in the second column, in points (a) and (b);
 - (iii) in the third column, in the first indent under “Scale of assessment”;
 - (b) under the sub-heading “Specifications and standardised methods for monitoring and assessment”—
 - (i) in paragraph 2(a)—
 - (aa) before “Directive 2000/60/EC” insert “any enactment which gives effect to”;
 - (bb) before “that Directive” insert “any enactment which gives effect to”;
 - (ii) in paragraph 2(d), omit the second sentence;
 - (iii) in paragraph 3, for “at Union level” substitute “through regional or subregional cooperation”.
- 6.** Under the heading “Descriptor 9”—
- (a) in the heading, for “Union legislation” substitute “retained EU law”;
 - (b) under the sub-heading “Specifications and standardised methods for monitoring and assessment”—
 - (i) in paragraph 1(d), for “Member State” substitute “United Kingdom”;
 - (ii) in paragraph 3, for “Commission Regulation (EU) No 589/2014” substitute “Commission Regulation (EU) 2017/644 of 5 April 2017 laying down methods of sampling and analysis for the control of levels of dioxins, dioxin-like PCBs and non-dioxin-like PCBs in certain foodstuffs”, and omit footnote (11).
- 7.** Under the heading “Descriptor 10”, in the table—
- (a) in the second column, in both places where it occurs, omit “through cooperation at Union level”;
 - (b) in the third column, for “agreed at Union level”, in both places where it occurs, substitute “jointly agreed by the competent authorities”.
- 8.** Under the heading “Descriptor 11”, in the table—
- (a) in the second column, in both places where it occurs, omit “through cooperation at Union level”;
 - (b) in the third column, for “agreed at Union level” substitute “jointly agreed by the competent authorities”.

SCHEDULE 3

Regulation 12(2)(c)

AMENDMENT OF PART 2 OF THE ANNEX TO COMMISSION DECISION (EU) 2017/848

- 1.** Under the heading “Species groups of birds, mammals, reptiles, fish and cephalopods (relating to Descriptor 1)”, under the sub-heading “Criteria, including criteria elements, and methodological standards”, in the table—
- (a) in the first column, in the first row, omit from “, pursuant to” to “Decision (EU) 2016/1251” and footnote (15);
 - (b) in the first column, in the second row, omit “Union legislation” and the brackets around the words in parenthesis which follow;

- (c) in the second column, in the second and fourth rows, for “by the relevant Member States under” substitute “under any enactment which gives effect to”;
- (d) in the third column, in the second row, in point (b) under “Use of criteria”, before “that Directive” insert “any enactment which gives effect to”;
- (e) in the third column, in the second row, for “at Union level”, in both places where it occurs, substitute “by the Secretary of State, in consultation with the devolved policy authorities”.

2. Under the heading “Specifications and standardised methods for monitoring and assessment relating to theme ‘Species groups of marine birds, mammals, reptiles, fish and cephalopods’”, in paragraph 4—

- (a) in the words before point (a), before “Directive 92/43/EEC” insert “any enactment giving effect to”;
- (b) in points (a) and (b), before “Directive” insert “any enactment giving effect to”.

3. Under the heading “Benthic habitats (relating to Descriptors 1 and 6)”—

- (a) under the sub-heading “Criteria, including criteria elements, and methodological standards”, in the table—
 - (i) in the second column, in the first and second rows, in each place where it occurs, omit “, through cooperation at Union level,”;
 - (ii) in the third column, in the first row, omit “agreed at Union level”;
- (b) under the sub-heading “Specifications and standardised methods for monitoring and assessment relating to theme ‘Benthic habitats’”, in paragraphs 1 and 3, before “Directive 92/43/EEC” insert “any enactment giving effect to”.

SCHEDULE 4

Regulation 12(3)

NEW ANNEX 2 TO COMMISSION DECISION (EU) 2017/848

“ANNEX 2

Article 2(3)

Modification of Marine Strategy Framework Directive

1. Omit the following provisions—
 - (a) in Article 4(2), the final subparagraph;
 - (b) in Article 5(3), from “In these cases” to the end;
 - (c) Article 9(2);
 - (d) Article 10(2);
 - (e) Article 11(3);
 - (f) Article 13(9);
 - (g) in Annex 1, the final sentence in the paragraph after point (11).
2. In Article 3(9), for “third countries” substitute “other countries”.
3. In Article 5(2), omit “for which Member States concerned endeavour to follow a common approach”.
4. In Article 6(2)—
 - (a) in the first subparagraph, for “third countries” substitute “other countries”;
 - (b) in the third subparagraph—

- (i) after “Member States”, in the first place where it occurs, insert “and other countries”;
 - (ii) omit “in order to allow Member States” to the end.
- 5. In Article 8(2), after “in particular” insert “any enactment giving effect to”.
- 6. In Article 9(3), omit—
 - (a) “in accordance with the regulatory procedure with scrutiny referred to in Article 25(3)”;
 - (b) the final sentence.
- 7. In Article 10(1), omit “, Community”.
- 8. In Article 11—
 - (a) in paragraph 1, omit “including the Habitats and Birds Directives”;
 - (b) in paragraph 4, omit “in accordance with the regulatory procedure with scrutiny referred to in Article 25(3)”.
- 9. In Article 13—
 - (a) in paragraph 2, for the words from “in particular Directive 2000/60/EC” to “forthcoming legislation on environmental quality standards in the field of water policy” substitute “(in particular in relation to water quality, including urban waste-water treatment and bathing water quality)”;
 - (b) in paragraph 3, omit “referred to in Article 7”;
 - (c) in paragraph 4—
 - (i) for “special areas of conservation pursuant to the Habitats Directive, special protection areas pursuant to the Birds Directive” substitute “special areas of conservation or special protection areas pursuant to retained EU law”;
 - (ii) for “Community or Members States concerned in the framework of international or regional agreements to which they are parties” substitute “United Kingdom in the framework of international or regional agreements to which it is a party”;
 - (d) in paragraph 5, omit—
 - (i) “Community or”;
 - (ii) “, individually or jointly,”;
 - (iii) “competent authority or”;
 - (e) in paragraph 10, omit “Subject to Article 16”.
- 10. In Article 17—
 - (a) in paragraph 3—
 - (i) omit “to the Commission,”;
 - (ii) omit “and to any other Member State concerned”;
 - (iii) for “Article 19(2)” substitute “regulation 18(7) of the Marine Strategy Regulations 2010”;
 - (b) omit paragraph 4.
- 11. In Annex 3—
 - (a) in the notes below Table 1, in Note 1 and Note 3, for “in accordance with Article 9(3)” substitute “in Commission Decision (EU) 2017/848 laying down criteria and methodological standards on good environmental status of marine waters and specifications and standardised methods for monitoring and assessment”;
 - (b) in the notes below Table 2, in Note 3, for “in accordance with Article 9(3)” substitute “in Commission Decision (EU) 2017/848 laying down criteria and methodological

standards on good environmental status of marine waters and specifications and standardised methods for monitoring and assessment”.

12. In Annex 4, in point (11), for “the Community and its Member States have committed themselves” substitute “the United Kingdom has committed itself”.

13. In Annex 5, in point (9), for “at Community level” substitute “at regional or subregional level”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(b), (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation in the field of the marine environment and, in particular, marine strategy. Part 2 amends primary legislation (the Marine and Coastal Access Act 2009 (c. 23)), Part 3 amends subordinate legislation (the Marine Strategy Regulations 2010 (S.I. 2010/1627) and the Marine Licensing (Exempted Activities) Order 2011 (S.I. 2011/409)), and Part 4 amends other legislation (Commission Decision (EU) 2017/848).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

EXPLANATORY MEMORANDUM TO

THE MARINE ENVIRONMENT (AMENDMENT) (EU EXIT) REGULATIONS 2018

2018 No. [XXXX]

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Department for Environment, Food & Rural Affairs and is laid before Parliament by Act.

2. Purpose of the instrument

- 2.1 This instrument is made in exercise of the powers conferred by section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 in order to ensure that UK and EU legislation relating to the marine environment, in particular marine strategy, will continue to be operable after the UK leaves the EU.

Explanations

What did any relevant EU law do before exit day?

- 2.2 The Marine Strategy Framework Directive (the MSFD) requires the UK to put in place the necessary measures to achieve or maintain good environmental status in the marine environment by 2020.

The Marine Strategy Regulations 2010 were made under section 2(2) of the European Communities Act 1972 and transpose the requirements of the MSFD into UK law.

Commission Decision (EU) 2017/848 sets out the criteria and methodological standards to be used for the purposes of determining good environmental status, and specifications and standardised methods for monitoring and assessment.

The Marine and Coastal Access Act 2009 (the MCAA) established provisions for the management and protection of the marine and environment. The relevant provisions are in Part 3 (Marine Planning) which sets out requirements for a UK Marine Policy Statement and marine plans, Part 4 (Marine Licensing) which sets out the marine licensing regime, Part 5 (Nature Conservation) which sets out a power to create Marine Conservation Zones and a duty to contribute to a UK network of marine sites, and Part 8 (Enforcement) which sets out enforcement powers for enforcing requirements across licensing, nature conservation and fishing.

The Marine Licensing (Exempted Activities) Order 2011 was made in exercise of powers under section 74 of the MCAA and sets out exemptions to otherwise licensable activities.

Why is it being changed?

- 2.3 The changes made by the instrument are necessary to ensure that the current legislation continues to operate effectively after we leave the EU. The changes include the replacement of references to “Member States” with references to the UK or to an appropriate UK body, the replacement of references to “Community legislation” or “EU law” with references to “retained EU law”, and the replacement of requirements to notify or report to the Commission with requirements to report

publicly. The changes also ensure that cross references to the MSFD, and other EU legislation, will continue to work after exit.

What will it now do?

- 2.4 The instrument will ensure that the legislation described above (2.2) will operate effectively in the UK after we leave the EU.

3. Matters of special interest to Parliament

Matters of special interest to the Sifting Committees.

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom.
- 4.2 The territorial application of this instrument varies and is dependent on the application of the legislation that is being amended, as follows:
- The application of regulation 2 varies and is dependent on the application of the provision that is being amended¹.
 - Regulations 3, 5, 6, 7, 8, 9, 10, 11 and 12 apply to the marine strategy area. This area includes territorial seas, including coastal waters as defined by the Water Framework Directive (Directive 2000/60/EC), and offshore waters out to the limits of the UK's renewable energy zone. The marine strategy area also includes areas of the UK's Continental Shelf beyond the renewable energy zone, but for these areas the instrument only applies to the seabed and not the water column above it.
 - Regulation 4 applies wherever the Secretary of State is the licensing authority under Part 4 of the MCAA. The UK marine licensing area covers all UK marine waters apart from Scottish inshore waters, where a separate regime applies. In addition certain activities are licensable wherever carried out if they are carried out by British vessels, vehicles, aircraft, marine structures or floating containers or if the vessels etc have been loaded in the UK. The appropriate licensing authority is defined in section 113 of the MCAA. Licensing in Welsh inshore and offshore² waters, Northern Ireland inshore waters and Scottish offshore waters has been devolved except for the reserved matters specified in section 113. Other than where responsibility has been devolved, the Secretary of State is the licensing authority. The Secretary of State has then delegated licensing (and enforcement) functions to the Marine Management Organisation by means of the Marine Licensing (Delegated Functions) Order 2011.

¹ The Explanatory Notes to the MCAA, Section 323: Extent (paragraphs 830 to 842), comment on the application of the relevant Parts of the MCAA.

² Following the commencement of section 46 of the Wales Act 2017 on 1 April 2018, the Welsh Ministers are the appropriate licensing authority for the Welsh offshore region.

5. European Convention on Human Rights

5.1 Parliamentary Under Secretary of State for the Environment and Rural Affairs, Thérèse Coffey MP has made the following statement regarding Human Rights:

‘In my view the provisions of the Marine Environment (Amendment) (EU Exit) Regulations [2018] are compatible with the Convention rights’.

6. Legislative Context

6.1 The legislative context for this instrument is summarised in paragraph 2.2. A summary of the types of amendment made to the current legislation is set out in paragraph 2.3, with other types of amendments summarised below.

6.2 The amendments made to the MCAA include:

- the amendment of section 60(8) to reflect amendments to devolution legislation under Part 3 of Schedule 3 to the European Union (Withdrawal) Act 2018
- the removal of section 141(6), which is spent, and the related removal of the definition of “third country vessel” (which would require amendment, as set out below, if retained)
- the amendment of section 244(1) to provide that EU Member State (and Gibraltar) vessels will be treated as “third country vessels” for the purposes of the enforcement of nature conservation legislation under sections 237 and 243 after the UK leaves the EU; there will be no longer be any basis for treating such vessels differently.

6.3 The amendments made to the Marine Strategy Regulations 2010 include:

- the inclusion of a new interpretive provision in new regulation 2(6), so that for the purposes of the Regulations the requirements of the MSFD mean the requirements of the MSFD in so far as they are not reflected in the Regulations or Commission Decision (EU) 2017/848, and as read with the necessary modifications.
- the inclusion of a reference to Commission Decision (EU) 2017/848 in regulation 5(1), to clarify the connection between the Regulations and the Decision (and further the inclusion of new Article 1(2) of the Decision, to clarify that regulation 7(3) of the Regulations applies to the Decision).
- the removal of regulation 17 on Commission notifications and reports; the notification deadlines for regulations 17(1)(a) to (e) have passed and the notifications under regulation 17(1)(g) and (h) are no longer relevant; the notifications under regulation 17(1)(f) will be made as public reports pursuant to the public participation provisions in regulation 18; the notifications to OSPAR under regulation 17(3) will be made pursuant to the public participation provisions in regulation 18, by virtue of regulation 18(8); and the reporting requirements under regulation 17(2) are moved to new regulation 14(13).
- the amendment of regulation 18 consequential to the amendment of Regulation provisions relating to Commission notifications and reports, including regulation 17
- the amendment of regulation 19 (Directions to, and assistance from, public authorities); the Department does not consider that this constitutes the amendment of “a power to legislate” for the purposes of paragraph 1(2)(d) of Part 1 of Schedule 7 to the European Union (Withdrawal) Act 2018. The Marine Strategy Regulations 2010 are made under section 2(2) of the European Communities Act 1972 and section 2(2)

regulations are unable to “confer any power to legislate by means of orders, rules, regulations or other subordinate instrument, other than rules of procedure for any court or tribunal”. The Department therefore considers that only directions of a non-legislative character can be made under regulation 19.

- the amendment of paragraph 5 of Part 1 of Schedule 1 to reflect amendments to devolution legislation under Part 3 of Schedule 3 to the European Union (Withdrawal) Act 2018.
- the inclusion of a schedule of MSFD modifications, to ensure all cross references to the MSFD in the Regulations are read with the appropriate modifications; the modifications are similar to the amendments summarised in paragraph 2.2, and also provide for the removal of references to provision made pursuant to the procedure in Article 25(3) MSFD (provision will be made in accordance with the instrument described in paragraph 6.6).

6.4 The amendments made to the Marine Licensing (Exempted Activities) Order 2011 comprise the amendment of article 37(2) to provide that EU Member State (and Gibraltar) vessels will be treated as “third country vessels” for the purposes of the exemption after the UK leaves the EU; there will be no longer be any basis for treating such vessels differently.

6.5 The amendments made to Commission Decision (EU) 2017/848 include:

- the replacement of references to “Member States” with references to the appropriate UK authority(ies) specified in the relevant provision of the Marine Strategy Regulations 2010.
- the removal of references to “Union cooperation”; after the UK leaves the EU such cooperation will take place at regional or subregional level (through OSPAR mechanics), as currently provided in the Decision.
- the replacement of requirements to agree at Union level with requirements for the appropriate UK authority(ies) to agree, or with requirements to agree through regional or subregional cooperation.
- the amendment or modification of references to non-marine EU legislation, to reflect the amendments made by other instruments introduced by the Department (and other Government Departments) under section 8 of the European Union (Withdrawal) Act 2018.
- the inclusion of a schedule of MSFD modifications, to ensure all cross references to the MSFD in the Decision are read with the appropriate modifications; the modifications are similar to the amendments summarised in paragraph 2.2, and also provide for the removal of references to provision made pursuant to the procedure in Article 25(3) MSFD (provision will be made in accordance with the instrument described in paragraph 6.6).

6.6 In addition to this instrument the Department will also introduce an instrument which transfers functions of the European Commission under the MSFD to the appropriate UK authority where appropriate, and an instrument which amends Parts 1 (The Marine Management Organisation) and 8 (Enforcement (fishing)) of the MCAA.

7. Policy background

What is being done and why?

- 7.1 The amendments to the MCAA, the Marine Strategy Regulations 2010, the Marine Licensing (Exempted Activities) Order 2011 and Commission Decision (EU) 2017/848 (set out in paragraphs 2.3 and 6) are being made to correct operability deficiencies which, if not corrected, would mean that the UK would be unable to maintain the current levels of marine environmental protection. The changes made by the instrument are necessary to ensure that the current legislation continues to operate effectively after we leave the EU.
- 7.2 In addition, the amendments to the Marine Strategy Regulations 2010 and Commission Decision (EU) 2017/848 are being made on a UK-wide basis in order to maintain the existing UK wide framework for marine strategy. This will ensure continuity and consistency of marine environmental monitoring and standards throughout UK waters. This will ensure continuity and consistency of marine environmental monitoring and standards throughout UK waters. The amendments will mean the UK will continue to work cooperatively with other countries within the same marine region or sub-region, to develop our marine strategy. This coordination is being achieved through the Regional Seas Conventions, which for the UK is the OSPAR Convention.
- 7.3 Failure to update and operationalise the legislation underpinning the monitoring, standards, and reporting framework on the environmental status of our seas, creates a risk of reputational harm in the UK from stakeholders, as well as on the international environmental stage, and could potentially leave us open to judicial review.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument is being made using the power in section 8 of 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. The instrument is also made under the power in paragraph 21 of Schedule 7 to that Act to make supplementary, incidental, consequential, transitional, transitory or saving provision (including provision re-stating any retained EU law in a clearer or more accessible way). 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.

9. Consolidation

- 9.1 None.

10. Consultation outcome

- 10.1 This instrument has not been subject to formal consultation.
- 10.2 The Devolved Administrations (Scottish Government, DAERA and Welsh Government) have been consulted on the amendments contained in the instrument, and they are content with the approach being taken.

- 10.3 The Department has conducted informal consultation with Natural England, the Marine Management Organisation, the Joint Nature Conservation Committee and the Centre for Environment, Fisheries and Aquaculture Science.
- 10.4 The Department has also engaged informally with stakeholders including the Wildlife Trusts, Crown Estate, Client Earth, Marine Conservation Society, Royal Society for the Protection of Birds, Association of British Ports, Energy UK, Sea-bed Users and Development Group, and Wildlife and Countryside Link.

11. Guidance

- 11.1 No guidance is required since the instrument makes the minimum changes necessary to ensure the continuity of existing marine environmental protection post EU Exit.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because the SI maintains existing regulatory standards.
- 12.4 The legislation included in this instrument will still apply when we leave the EU. This will provide the maximum possible certainty and continuity to businesses, workers and consumers across the UK so that they can have confidence that they will not be subject to unexpected changes on the day we leave the EU.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that Defra will continue to review legislation to ensure that all relevant EU marine environment legislation is captured. If further EU legislation is identified it will be submitted as separate legislation.
- 14.2 As this instrument is made under the EU Withdrawal Act 2018, no review clause is required.

15. Contact

- 15.1 Martin Adams at the Department for Environment, Food and Rural Affairs Telephone: 02080 261474 or email: Martin.Adams@DEFRA.gsi.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Gemma Harper, Deputy Director for Marine at the Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Thérèse Coffey MP, Parliamentary Under Secretary of State for the Environment and Rural Affairs, at Department for Environment, Food and Rural Affairs can confirm that this Explanatory Memorandum meets the required standard.

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 under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly 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	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	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	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State 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	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	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	Ministers of the Crown exercising sections 8(1), 9, and 23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	Set out the ‘good reasons’ for creating a criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister’s opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument’s effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority’s response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

- 1.1 The Parliamentary Under Secretary of State for the Environment and Rural Affairs, Thérèse Coffey MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Marine Environment (Amendment) (EU Exit) Regulations 2018 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure)”.

- 1.2 This is the case because this instrument addresses only technical deficiencies in retained EU legislation and EU derived UK legislation that will arise from withdrawal; it does not change the substantive policy.

2. Appropriateness statement

- 2.1 Parliamentary Under Secretary of State for the Environment and Rural Affairs, Thérèse Coffey MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Marine Environment (Amendment) (EU Exit) Regulations 2018 does no more than is appropriate”.

- 2.2 This is the case because: the instrument makes only the necessary technical drafting changes to retained EU legislation and EU derived domestic legislation required to maintain continuity and operability of marine environmental protection following the UK’s withdrawal from the EU.

3. Good reasons

- 3.1 The Parliamentary Under Secretary of State for the Environment and Rural Affairs, Thérèse Coffey MP 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”.

- 3.2 These are: to ensure that the current legislation continues to operate effectively after we leave the EU, so that the UK can maintain current levels of marine environmental protection. The instrument makes the minimum changes necessary to ensure that cross references to the MSFD, and other EU and EU derived UK legislation, will continue to work after exit.

4. Equalities

- 4.1 The Parliamentary Under Secretary of State for the Environment and Rural Affairs, Thérèse Coffey MP 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 Parliamentary Under Secretary of State for the Environment and Rural Affairs, Thérèse Coffey MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, Thérèse Coffey MP 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 section 2 of the main body of this explanatory memorandum.

UK MINISTERS ACTING IN DEVOLVED AREAS

The Marine Environment (Amendment) (EU Exit) Regulations 2018 *Laid in the UK Parliament: 20 November 2018*

Sifting

Subject to sifting in UK Parliament?	Yes
Procedure:	Proposed negative
Date of consideration by the House of Commons European Statutory Instruments Committee	4 December 2018
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	w/c 3 December 2018
Date sifting period ends in UK Parliament	5 December 2018
Written statement under SO 30C:	Paper xx
SICM under SO 30A (because amends primary legislation)	Paper xx

Scrutiny procedure

Outcome of sifting	Not known
Procedure	Negative or Affirmative
Date of consideration by the Joint Committee on Statutory Instruments	Not known
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known

Commentary

These Regulations are proposed to be made by the UK Government pursuant to section 8(1) of, and paragraph 21(b) of Schedule 7 of the European Union (Withdrawal) Act 2018.

These Regulations make changes to the following legislation:-

- The Marine Strategy Framework Directive (“the MSFD”);
- The Marine Strategy Regulations 2010;
- Commission Decision (EU) 2017/848;
- The Marine and Coastal Access Act 2009 (“the MCCA”); and
- The Marine Licensing (Exempted Activities) Order 2011.

As these regulations amend primary legislation i.e. the MCCA, the Welsh Government have laid a statutory instrument consent memorandum under Standing Order 30A.2.

These changes are necessary to ensure that the above legislation continues to operate effectively after the UK leaves the EU. The changes include the replacement of references to “Member States” with references to the UK or to an appropriate UK body, the replacement of references to “Community legislation” or “EU law” with references to “retained EU law”, and the replacement of requirements to notify or report to the Commission with requirements to report publicly. The changes also ensure that cross references to the MSFD, and other EU legislation, will continue to work after exit.

Legal Advisers agree with the statement laid by the Welsh Government dated 22 November 2018 regarding the effect of these Regulations.

The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect and the extent to which these Regulations would enact new policy in devolved areas.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.

Legal Advisers have not identified any legal reason to seek a consent motion under Standing Order 30A.10 in relation to these Regulations.



Llywodraeth Cymru
Welsh Government

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

29 Tachwedd 2018

Annwyl Mick,

Diben y llythyr hwn yw rhoi gwybod ichi fy mod wedi gosod Memorandwm Cydsyniad Offeryn Statudol gerbron Cynulliad Cenedlaethol Cymru mewn perthynas â Rheoliadau Llongau Masnach a Thrafnidiaeth Arall (Diogelu'r Amgylchedd) (Diwygio) (Ymadael â'r UE) 2018, fel sy'n ofynnol o dan Reol Sefydlog 30A (RhS30A).

Rwyf yn ysgrifennu hefyd i roi gwybod ichi nad wyf yn bwriadu cyflwyno cynnig i gynnal dadl am yr OS hwn yn yr achos hwn. Rwyf wedi gwneud y penderfyniad hwn ar sail y ffaith mai'r unig beth y mae'r OS hwn yn ei wneud yw cywiro diffygion mewn cyfraith a fydd yn codi oherwydd bod y DU yn ymadael â'r UE. Darpariaethau technegol eu natur sydd yn yr OS hwn, ac nid oes unrhyw wahaniaeth polisi rhwng Llywodraeth Cymru a Llywodraeth y DU yn yr achos hwn.

Mae RhS 30A yn darparu y caiff unrhyw aelod gyflwyno cynnig i gynnal dadl am yr OS hwn. O ystyried faint o ddeddfwriaeth y mae'r Cynulliad yn ei ystyried, nid wyf yn credu y byddai dadl am yr OS hwn yn ddefnydd cynhyrchiol o amser gwerthfawr y Cyfarfod Llawn ac ni fyddaf yn ceisio cynnal dadl o'r fath.

Yn gywir,

Ken Skates AC/AM

Ysgrifennydd y Cabinet dros yr Economi a Thrafnidiaeth
Cabinet Secretary for Economy and Transport

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Ken.Skates@llyw.cymru
Correspondence.Ken.Skates@gov.wales

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

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.



DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL Rheoliadau Llongau Masnach a Thrafnidiaeth Arall (Diogelu'r Amgylchedd) (Diwygio) (Ymadael â'r UE) 2018

DYDDIAD 29 Tachwedd 2018

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

Rheoliadau Llongau Masnach a Thrafnidiaeth Arall (Diogelu'r Amgylchedd) (Diwygio) (Ymadael â'r UE) 2018

Y Gyfraith sy'n cael ei diwygio:

- Rheoliadau Llongau Masnach (Atal Llygredd Aer ar Longau) 2008
- Rheoliad Gweithredu'r Comisiwn (EU) 2015/253
- Rheoliad (EC) 782/2003
- Rheoliadau Llongau Masnach (Systemau Gwrth-halogi) 2009
- Rheoliad y Comisiwn (CE) 536/2008
 - Deddf Trafnidiaeth a Gwaith 1992
 - Rheolau Trafnidiaeth a Gwaith (Gweithdrefn Geisiadau a Gwrthwynebiadau) (Cymru a Lloegr) 2006.

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

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

Yn unol ag Atodlen 2 i Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999, nid yw'r swyddogaethau gwneud gorchmynion, rheolau a rheoliadau sydd gan yr Ysgrifennydd Gwladol o dan adrannau 1, 3, 6, 7(4), 8, 10 a 15 o Ddeddf Trafnidiaeth a Gwaith 1992 ond yn arferadwy gyda chytundeb Gweinidogion Cymru, i'r graddau y mae'r darpariaethau yn ymwneud â Chymru. Byddai unrhyw ddiwygiad i Reolau Trafnidiaeth a Gwaith (Gweithdrefn Geisiadau a Gwrthwynebiadau) (Cymru a Lloegr) 2006 yn ddibynnol ar rai o'r pwerau hyn, a

fyddai'n golygu y byddai cytundeb Gweinidogion Cymru yn cael ei geisio i'r graddau y mae'r diwygiadau'n ymwneud â Chymru.

Felly, mae Llywodraeth y DU wedi ceisio cytundeb Gweinidogion Cymru ac mae'r cytundeb hwnnw wedi'i roi.

Diben y diwygiadau

Diben y diwygiadau yw cywiro diffygion mewn deddfwriaeth sy'n ymdrin ag asesiadau o'r effaith amgylcheddol at ddibenion penodol yn ymwneud â thrafnidiaeth, a sicrhau y bydd modd gweithredu'n gyfreithlon y darpariaethau diogelu'r amgylchedd sy'n ymwneud â llygredd aer (yn benodol, faint o sylffwr sydd mewn tanwyddau a ddefnyddir ar y môr) ac â systemau gwrth-halogi gyfreithlon pan fydd y Deyrnas Unedig yn ymadael â'r Undeb Ewropeaidd.

Mae'r OS hefyd yn diweddarau cyfeiriadau at Gyfarwyddeb 1999/32/EC, a gafodd ei diddymu a'i disodli (heb ddiwygiadau o sylwedd) gan Gyfarwyddeb (EU) 2016/802, yn Rheoliadau Llongau Masnach (Atal Llygredd Aer o Longau) 2008 ac yn diweddarau cyfeiriad sydd wedi dyddio at gytundeb yr Ardal Economaidd Ewropeaidd yn Neddf Trafnidiaeth a Gwaith 1992.

Mae'r OS a'r Memorandwm Esboniadol cysylltiedig sy'n nodi effaith pob un o'r diwygiadau, i'w gweld yma: <https://beta.parliament.uk/statutory-instruments/fopeBO0Y>

Pam y rhoddwyd cydsyniad

Nid oes gwahaniaeth rhwng Llywodraeth Cymru a Llywodraeth y DU o ran polisi sy'n gysylltiedig â'r cywiriad, ac nid yw sylwedd y cywiriad yn sensitif yn wleidyddol. Felly, byddai gwneud OSau ar wahân yng Nghymru ac yn Lloegr yn arwain at ddyblygu gwaith ac at gymhlethdod diangen i'r llyfr statud. Mae cytuno i weithredu fel hyn yn sicrhau y bydd modd gweithio mewn ffordd gydlynol pryd bynnag y bo modd wrth baratoi'r llyfr statud fel ei fod yn gweithio'n iawn ar ôl i'r DU ymadael â'r UE. Bydd gweithredu fel hyn yn hyrwyddo eglurder a hygyrchedd deddfwriaeth ar draws y DU. O dan yr amgylchiadau eithriadol hyn, mae Llywodraeth Cymru yn ystyried ei bod yn briodol i Lywodraeth y DU ddeddfu ar ein rhan yn yr achos hwn.

MEMORANDWM CYDSYNIAD OFFERYN STATUDOL

Rheoliadau Llongau Masnach a Thrafnidiaeth Arall (Diogelu'r Amgylchedd) (Diwygio) (Ymadael â'r UE) 2018

1. Gosodir y Memorandwm Cydsyniad Deddfwriaethol hwn o dan Reol Sefydlog ("RhS") 30A.2. Mae RhS 30A yn rhagnodi bod yn rhaid i Femorandwm Cydsyniad Offeryn Statudol gael ei osod ac i Gynnig Cydsyniad Offeryn Statudol gael ei gyflwyno gerbron Cynulliad Cenedlaethol Cymru ("y Cynulliad") os yw un o offerynnau statudol (OS) y DU yn gwneud darpariaeth o ran Cymru sy'n diwygio deddfwriaeth sylfaenol sydd o fewn cymhwysedd deddfwriaethol y Cynulliad.
2. Cafodd *Rheoliadau Llongau Masnach a Thrafnidiaeth Arall (Diogelu'r Amgylchedd) (Diwygio) (Ymadael â'r UE) 2018* eu gosod gerbron Senedd y DU ar 27 Tachwedd 2018 ac maent bellach yn cael eu gosod gerbron y Cynulliad. Mae'r rheoliadau i'w gweld yma:
<https://beta.parliament.uk/statutory-instruments/fopeB00Y>

Crynodeb o'r Offeryn Statudol a'i Amcan

3. Amcan yr OS yw cywiro diffygion mewn deddfwriaeth sy'n ymdrin ag asesiadau o'r effaith amgylcheddol at ddibenion penodol yn ymwneud â thrafnidiaeth sy'n deillio o'r faith bod y DU yn ymadael â'r UE. Mae'n diweddarau rhai cyfeiriadau sydd wedi dyddio, gan gynnwys cyfeiriad wedi dyddio at gytundeb ar yr Ardal Economaidd Ewropeaidd yn Neddf Trafnidiaeth a Gwaith 1992. Mae hefyd yn ceisio sicrhau y bydd modd gweithredu'n gyfreithlon y darpariaethau diogelu'r amgylchedd sy'n ymwneud â llygredd aer (yn benodol, faint o sylffwr sydd mewn tanwyddau a ddefnyddir ar y môr) ac â systemau gwrth-halogi pan fydd y Deyrnas Unedig yn ymadael â'r Undeb Ewropeaidd.
4. Mae'r OS yn gwneud cywiriadau technegol i'r ddeddfwriaeth a ganlyn:
 - Rheoliadau Llongau Masnach (Atal Llygredd Aer ar Longau) 2008
 - Penderfyniad Gweithredu'r Comisiwn (EU) 2015/253
 - Rheoliad (EC) 782/2003
 - Rheoliadau Llongau Masnach (Systemau Gwrth-halogi) 2009
 - Rheoliad y Comisiwn (EC) 36/2008
 - Deddf Trafnidiaeth a Gwaith 1992
 - Rheolau Trafnidiaeth a Gwaith (Gweithdrefn Geisiadau a Gwrthwynebiadau) (Cymru a Lloegr) 2006.

Darpariaeth berthnasol sydd i'w gwneud gan yr OS

5. Y ddeddfwriaeth sylfaenol sydd o fewn cymhwysedd deddfwriaethol y Cynulliad ac sy'n cael ei diwygio gan yr OS drafft yw Deddf Trafnidiaeth a Gwaith 1992.

6. Y darpariaethau perthnasol yn yr OS yw rheoliadau 2 a 4, sy'n diweddarau cyfeiriad sydd wedi dyddio at yr Ardal Economaidd Ewropeaidd ac sy'n gwneud diwygiadau technegol fel y bo statws y DU y tu allan i'r UE yn cael ei adlewyrchu'n gywir.
7. Mae Llywodraeth Cymru o'r farn bod y darpariaethau a ddisgrifir uchod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud â thramffyrdd, systemau trafndiaeth cyfeiriedig, a rheoleiddio gwaith a allai rwystro neu beryglu mordwyaeth, oni bai bod y gwaith hwnnw'n gysylltiedig â phorthladdoedd neu harbyrau ymddiriedolaeth a gedwir yn ôl nad ydynt yn gyfan gwbl yng Nghymru, neu ag adeiladu porthladdoedd neu harbyrau o'r fath.

Pam mae'n briodol i'r OS mwneud y ddarpariaeth hon

8. Nid oes gwahaniaeth rhwng Llywodraeth Cymru a Llywodraeth y DU o ran y polisi sy'n gysylltiedig â'r cywiriad. Felly, byddai gwneud OSau ar wahân yng Nghymru ac yn Lloegr yn arwain at ddyblygu gwaith ac at gymhlethdod diangen i'r llyfr statud. Mae gweithredu fel hyn yn hyrwyddo eglurder a hygyrchedd yn ystod y cyfnod hwn o newid. O dan yr amgylchiadau eithriadol hyn, mae Llywodraeth Cymru yn ystyried ei bod yn briodol i Lywodraeth y DU ddeddfu ar ein rhan yn yr achos hwn.

Ken Skates AC

Ysgrifennydd y Cabinet dros yr Economi a Thrafnidiaeth

29 Tachwedd 2018

Draft Regulations laid before Parliament under paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No. 0000

EXITING THE EUROPEAN UNION

CANALS AND INLAND WATERWAYS, ENGLAND AND WALES

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

MARINE POLLUTION

TRANSPORT AND WORKS, ENGLAND AND WALES

The Merchant Shipping and Other Transport (Environmental Protection) (Amendment) (EU Exit) Regulations 2018

Made - - - - *2018*

Coming into force in accordance with regulation 1(2) and (3)

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972^(a) and section 8(1) of the European Union (Withdrawal) Act 2018^(b).

In accordance with paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

The Secretary of State has been designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to maritime transport^(c) and the environment^(d).

(a) 1972 c. 68. Section 2 was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).

(b) 2018 c. 16.

(c) S.I. 1994/757.

(d) S.I. 2008/301.

PART 1

Introduction

Citation and commencement

- 1.**—(1) These Regulations may be cited as the Merchant Shipping and Other Transport (Environmental Protection) (Amendment) (EU Exit) Regulations 2018.
- (2) Parts 1 and 2 come into force 21 days after making.
- (3) Parts 3, 4 and 5 come into force on exit day.

PART 2

Amendment of legislation made under the European Communities Act 1972

Amendment of the Transport and Works Act 1992

- 2.**—(1) Part 1 of the Transport and Works Act 1992(a) is amended as follows.
- (2) For section 6A(3)(b) (cases where other Member States are affected) substitute—
- “(3) “Member State”, in relation to any time, includes a State which is at that time a party to the EEA agreement.”.

Amendment of the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008

- 3.**—(1) The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008(c) are amended as follows.
- (2) In regulation 2 (interpretation)—
- (a) omit the definition of “the 1999 Directive”(d);
- (b) after the definition of “the 1995 Regulations” insert—
- ““the 2016 Directive” means Directive (EU) 2016/802 of the European Parliament and of the Council of 11th May 2016 relating to a reduction in the sulphur content of certain liquid fuels(e);”.
- (3) In regulation 32(3A)(b)(f) (offences) for “articles 4c2, 4c3 or 4d of the 1999 Directive” substitute “paragraphs 2 and 4 of Article 8, and Article 9, of the 2016 Directive”.
- (4) In Schedule 2A (sulphur oxides)(g)—
- (a) in paragraph 1 (interpretation), in the definition of “emission abatement method”(h), for “1999 Directive” substitute “2016 Directive”;
- (b) in paragraph 2(i) (control of sulphur oxide emissions: general provisions), in each place it occurs, for “Article 4c of the 1999 Directive” substitute “Article 8 of the 2016 Directive”;

(a) 1992 c. 42.

(b) As inserted by S.I. 1998/2226, and subsequently amended by S.I. 2000/3199.

(c) S.I. 2008/2924, as amended by S.I. 2010/895, S.I. 2010/3035, S.I. 2011/3056, S.I. 2014/3076, S.I. 2014/3306 and S.I. 2016/1025.

(d) Definition inserted by S.I. 2014/3076.

(e) O.J. No. L 132, 21.05.2016, p. 58.

(f) Regulation 32(3A) was inserted by S.I. 2010/895 and subsequently substituted by S.I. 2014/3076.

(g) Schedule 2A was inserted by S.I. 2010/895.

(h) Definition substituted by S.I. 2014/3076.

(i) Paragraph 2 was amended by S.I. 2014/3076.

- (c) in paragraph 3(2)(d)(ii)(a) (maximum sulphur content of marine fuel used by passenger ships) for “articles 4c2, 4c3 and 4d of the 1999 Directive” substitute “paragraphs 2 and 4 of Article 8, and Article 9, of the 2016 Directive”;
- (d) in paragraph 4(2)(e)(ii)(b) (maximum content of marine fuel used by ships at berth) for “articles 4c2, 4c3 and 4d of the 1999 Directive” substitute “paragraphs 2 and 4 of Article 8, and Article 9, of the 2016 Directive”;
- (e) in paragraph 10(3)(c) (analysis) for “articles 3a, 4, 4a and 4b of the 1999 Directive” substitute “Articles 4, 5, 6 and 7 of the 2016 Directive”.

PART 3

Amendment of primary legislation for EU Exit purposes

Amendment of the Transport and Works Act 1992

- 4.**—(1) Part 1 of the Transport and Works Act 1992(d) is amended as follows.
- (2) In section 6A(e) (cases where other Member States are affected)—
- (a) in the heading omit “other”;
 - (b) in subsections (1) and (2) for “another”, in each place it occurs, substitute “a”;
 - (c) in subsection (2)(b) for “that other” substitute “a”.
- (3) In section 13C(3)(f) (EIA orders: monitoring measures and remedial action) for “implementing” substitute “which implemented”.
- (4) In section 14(3AB)(g) (publicity for making or refusal of orders), in paragraph (a)(i), for “another” substitute “a”.

PART 4

Amendment of subordinate legislation for EU Exit purposes

Amendment of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006

- 5.**—(1) The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006(h) are amended as follows.
- (2) In rule 4 (interpretation and notices), after paragraph (4) insert—
- “(5) For the purposes of these Rules, references to Annex III of the Directive are to be read as if—
- (a) in point 2(c)(v), the reference to Member States were a reference to the Secretary of State;
 - (b) in point 2(c)(vi), the reference to Union legislation were a reference to retained EU law.”.

(a) Paragraph 3(2)(d) was substituted by S.I. 2014/3076.
 (b) Paragraph 4(2)(e) was substituted by S.I. 2014/3076.
 (c) Paragraph 10(3) was substituted by S.I. 2014/3076.
 (d) 1992 c. 42.
 (e) As inserted by S.I. 1998/2226, and subsequently amended by S.I. 2000/3199.
 (f) As inserted by S.I. 2017/1070.
 (g) As inserted by S.I. 2017/1070.
 (h) S.I. 2006/1466, as amended by S.I. 2008/969, S.I. 2010/439, S.I. 2010/1551, S.I. 2011/556, S.I. 2011/1829, S.I. 2011/2085, S.I. 2012/147, S.I. 2012/1658, S.I. 2012/1659, S.I. 2012/2590, S.I. 2013/755, S.I. 2013/1888, S.I. 2014/469, S.I. 2015/627, S.I. 2015/1682 and S.I. 2017/1070.

- (3) In rule 7 (the requirement for environmental statement and screening decisions)—
- (a) in paragraphs (5) and (11)(b)—
 - (i) for “European Union legislation” substitute “retained EU law”;
 - (ii) for “implementing” substitute “which implemented”;
 - (b) in paragraph (10) omit “for the purposes of the Directive”;
 - (c) in paragraph (11)(c) before “are relevant” insert “the Secretary of State determines”;
 - (d) in paragraph (14) before “in Annex III” insert “set out”.
- (4) In rule 7A(2)(b) (environmental impact assessment) after “protected under” insert “any law of any part of the United Kingdom which implemented”.
- (5) In rule 11(2)(c) (environmental statements: provision of information) for “European Union legislation” substitute “retained EU law”.
- (6) In rule 16 (developments likely to have significant effects on the environment of another part of the United Kingdom or certain other states)—
- (a) in paragraphs (1)(b), (1)(c) and (4) for “another” substitute “a”;
 - (b) in paragraph 7(a) for “the authorities referred to in Article 6(1) of the Directive” substitute “any authority which the Member State has indicated it wishes to be consulted by reason of the authority’s specific environmental responsibilities or local or regional competencies”;
 - (c) in paragraph (7)(d) omit “other”.
- (7) In Schedule 1 (information to be included in environmental statements)—
- (a) in paragraph 5(2) for the second sentence substitute—

“This description should take into account the environmental protection objectives which are relevant to the project.”;
 - (b) in paragraph 8—
 - (i) for “European Union legislation such as” substitute “retained EU law such as any law of any part of the United Kingdom which implemented”;
 - (ii) before “domestic legislation” insert “other”;
 - (iii) after “requirements of” insert “any law of any part of the United Kingdom which implemented”.
- (8) In Schedule 7 (proposals for orders under section 7)—
- (a) in paragraph 3 for “within the meaning of the Directive,” substitute “(as defined in Article 1(2)(a) of the Directive)”;
 - (b) in paragraph 7(b)—
 - (i) for “European Union legislation” substitute “retained EU law”;
 - (ii) for “implementing” substitute “which implemented”;
 - (c) in paragraph 30, in sub-paragraphs (1)(a), (1)(b) and (2)(c), for “another” substitute “a”.

Amendment of the Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008

6.—(1) The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008(a) are amended as follows.

- (2) In regulation 2(b) (interpretation) for the definition of “Certifying Authority” substitute—

(a) S.I. 2008/2924, as amended by S.I. 2010/895, S.I. 2010/3035, S.I. 2011/3056, S.I. 2014/3076, S.I. 2014/3306 and S.I. 2016/1025.

(b) Regulation 2 was substituted by S.I. 2011/3056.

““Certifying Authority” means the Secretary of State or any person authorised by the Secretary of State in accordance with regulation 4 (certifying authorities) of the Merchant Shipping (Survey and Certification) Regulations 2015(a);”.

(3) In regulation 32(3A)(b)(b) (offences) omit “other than the United Kingdom”.

(4) In Schedule 2 (engines excluded from regulation 21), in paragraph 1(c), before “the European Economic Area” insert “the United Kingdom or”.

(5) In Schedule 2A(c) (sulphur oxides)—

(a) in paragraph 3(2)(d)(ii)(d) (maximum sulphur content of marine fuel used by passenger ships) omit “other than the United Kingdom”;

(b) in paragraph 3(6) for the definition of “regular service” substitute—

““regular service” means a series of crossings operated so as to serve traffic between the same two or more ports where each port is either in the United Kingdom or within the European Union, or a series of voyages from and to the same port in the United Kingdom or within the European Union without intermediate calls, either—

(a) according to a published timetable, or

(b) with crossings so regular that they constitute a recognisable schedule.”;

(c) in paragraph 4(2)(e)(ii)(e) (maximum content of marine fuel used by ships at berth) omit “other than the United Kingdom”;

(d) in paragraph 6 (trials of emission abatement technologies)—

(i) for sub-paragraph (4) substitute—

“(4) The Secretary of State must, at least six months before an intended trial begins, give notice of that trial in writing to any port State concerned.”;

(ii) in sub-paragraph (5) omit “(a)(ii)”.

Amendment of the Merchant Shipping (Anti-Fouling Systems) Regulations 2009

7.—(1) The Merchant Shipping (Anti-Fouling Systems) Regulations 2009(f) are amended as follows.

(2) In regulation 2(g) (interpretation) for the definition of “Certifying Authority” substitute—

““Certifying Authority” means the Secretary of State or any person authorised by the Secretary of State in accordance with regulation 4 (certifying authorities) of the Merchant Shipping (Survey and Certification) Regulations 2015;”.

(3) In regulation 3(1)(b) (application) for “another” substitute “an”.

(4) In regulation 4 (surveyors and the issue of certificates)—

(a) in paragraph (1)—

(i) in the opening words for “ships flying the flag of a Member State” substitute “United Kingdom ships”;

(ii) in sub-paragraph (a) for “the administration of the Member State” substitute “the Secretary of State or the administration of a Member State”;

(iii) in sub-paragraph (b) for “a surveyor nominated for the purpose by one of those administrations, or by a recognised organisation acting on behalf of the administration” substitute “a surveyor nominated for the purpose by the Secretary of

(a) S.I. 2015/508, to which there are amendments not relevant to these Regulations.

(b) Regulation 32(3A) was substituted by S.I. 2014/3076.

(c) Schedule 2A was inserted by S.I. 2010/895.

(d) Paragraph 3(2)(d) was substituted by S.I. 2014/3076.

(e) Paragraph 4(2)(e) was substituted by S.I. 2014/3076.

(f) S.I. 2009/2796, amended by S.I. 2011/3056 and S.I. 2013/3306.

(g) Definition substituted by S.I. 2011/3056.

State or the administration of a Member State, or by a recognised organisation acting on behalf of the Secretary of State or the administration of a Member State”;

- (b) in paragraph (2) after “carried out by” insert “the Secretary of State or”.

PART 5

Amendment of direct EU legislation

Amendment of Regulation (EC) 782/2003

8.—(1) Regulation (EC) No 782/2003 of the European Parliament and of the Council of 14th April 2003 on the prohibition of organotin compounds on ships is amended as follows.

(2) In Article 2 (definitions)—

- (a) in paragraph 6 for the definition of ‘recognised organisation’ substitute—

“‘recognised organisation’ means an organisation recognised in accordance with Regulation (EC) 391/2009 of the European Parliament and of the Council of 23rd April 2009 on common rules and standards for ship inspection and survey organisations;”;

- (b) in paragraph 7—

- (i) after “when it is issued by” insert “a Certifying Authority or”;
- (ii) for “its behalf” substitute “behalf of the Secretary of State or the administration of any Member State”;

- (c) in paragraph 9—

- (i) after “issued by” insert “a Certifying Authority or”;
- (ii) after “on behalf of” insert “the Secretary of State or”;

- (d) at the end of paragraph 10 insert—

“;

11. ‘United Kingdom ship’ has the same meaning as in section 85(2) of the Merchant Shipping Act 1995^(a);

12. ‘Certifying Authority’ means the Secretary of State or any person authorised by the Secretary of State in accordance with regulation 4 (certifying authorities) of the Merchant Shipping (Survey and Certification) Regulations 2015”.

(3) In Article 3 (scope)—

- (a) before point (a) of paragraph 1, insert—

“(za) United Kingdom ships,”;

- (b) in point (b) of paragraph 1 after “the authority of” insert “the United Kingdom or”;

- (c) in point (c) of paragraph 1 after “offshore terminal of” insert “the United Kingdom or”.

(4) In Article 5 (prohibition of the bearing of organotin compounds which act as biocides), for “Ships” substitute “United Kingdom ships and ships”.

(5) In Article 6 (survey and certification)—

- (a) in paragraph 1—

- (i) for “ships flying the flag of a Member State” substitute “United Kingdom ships”;
- (ii) after point (b) of paragraph 1 omit the unnumbered paragraph;
- (iii) omit point (c);

(a) 1995 c. 21.

- (b) in paragraph 2 for “Member States”, in each place it occurs, substitute “a Certifying Authority”;
- (c) omit paragraph 3.
- (6) In Article 7 (Port State control)—
 - (a) in the first unnumbered paragraph for “Member States”, in each place it occurs, substitute “the Secretary of State or persons appointed by the Secretary of State”;
 - (b) omit the second unnumbered paragraph.
- (7) For Article 8 (adaptations) substitute—

“Article 8

Adaptations

1. Subject to paragraph 2, the Secretary of State may make regulations to amend references in this Regulation to—
 - (a) the AFS-Convention;
 - (b) the AFS-Certificate;
 - (c) the AFS-Declaration;
 - (d) the AFS-Statement of Compliance;
 - (e) the European AFS-Statement of Compliance;
 - (f) the Annexes to this Regulation, including relevant International Maritime Organisation guidelines in relation to Article 11 of the AFS-Convention.
2. The power in paragraph 1 may only be exercised where the Secretary of State considers it necessary in order to—
 - (a) take account of developments at international level and in particular in the International Maritime Organisation; or
 - (b) improve the effectiveness of this Regulation.
3. Any power to make regulations under paragraph 1 is exercisable by statutory instrument.
4. Regulations made under paragraph 1 may—
 - (a) make different provision for different purposes, cases or areas;
 - (b) make consequential, incidental, supplementary, transitional or transitory or saving provisions.
5. A statutory instrument containing regulations made under paragraph 1 is subject to annulment in pursuance of a resolution of either House of Parliament.”.
- (8) Omit Article 9 (committee) and Article 10 (evaluation).
- (9) In Article 11 (entry into force) omit the second sentence.
- (10) In Annex 1 (surveys and certification requirements for anti-fouling systems on ships flying the flag of a Member State)—
 - (a) in the heading for “ships flying the flag of a Member State” substitute “United Kingdom ships”;
 - (b) in paragraph 1 (surveys)—
 - (i) for point 3 substitute—

“1.3 Surveys shall be carried out by officers duly authorised by the Secretary of State or the administration of a Member State, or of a party to the AFS-Convention, or by a surveyor nominated for the purpose by the Secretary of State or the administration of a Member State, or by a recognised organisation acting on behalf of the Secretary of State or the administration of a Member State.”;
 - (ii) in point 4 for “Member States” substitute “a Certifying Authority”;

(c) in paragraph 2 (certification)—

(i) for point 1 substitute—

“2.1 After completion of a survey referred to in point 1.1(a) or (b), a Certifying Authority shall issue an AFS-Certificate.”;

(ii) in point 2 for “A Member State” substitute “A Certifying Authority”;

(iii) in point 3 for “Member States” substitute “The Secretary of State”;

(iv) in point 4 for “Member States” substitute “A Certifying Authority”.

Amendment of Commission Regulation (EC) 536/2008

9.—(1) Commission Regulation (EC) No 536/2008 of 13th June 2008 giving effect to Article 6(3) and Article 7 of Regulation (EC) No 782/2003 of the European Parliament and of the Council on the prohibition of organotin compounds on ships and amending that Regulation is amended as follows.

(2) In Article 3 for “Member States”, in each place it occurs, substitute “the Secretary of State or persons appointed by the Secretary of State”.

(3) In Article 4 for “Member States” substitute “the Secretary of State or persons appointed by the Secretary of State”.

(4) In Article 6 omit the second sentence.

Amendment of Commission Implementing Decision (EU) 2015/253

10.—(1) Commission Implementing Decision (EU) 2015/253 of 16th February 2015 laying down the rules concerning the sampling and reporting under Council Directive 1999/32/EC as regards the sulphur content of marine fuels is amended as follows.

(2) In Article 1 (subject matter) for “Directive 1999/32/EC” substitute “Directive (EU) 2016/802”.

(3) In Article 2 (definitions)—

(a) in paragraph 4—

(i) for “the competent authority of a Member State” substitute “the Secretary of State or persons appointed by the Secretary of State”;

(ii) for “Directive 1999/32/EC” substitute “Directive (EU) 2016/802”;

(b) after paragraph 4 insert—

“(4A) ‘United Kingdom ship’ has the same meaning as in section 85(2) of the Merchant Shipping Act 1995(a).”;

(c) omit paragraph 5.

(4) In Article 3 (frequency of sampling of marine fuels being used on board ships)—

(a) in paragraph 1—

(i) for “Member States” substitute “The Secretary of State or persons appointed by the Secretary of State”;

(ii) for “relevant Member State” substitute “United Kingdom”;

(b) in the first unnumbered paragraph—

(i) for “a Member State” substitute “the United Kingdom”;

(ii) omit the words “as reported through SafeSeaNet”;

(c) for paragraph 2 substitute—

(a) 1995 c. 21.

“2. As from 1 January 2016, the sulphur content of the marine fuel being used on board shall also be checked by sampling or analysis or both of at least 30 per cent of the inspected ships referred to in paragraph 1.

The Secretary of State or persons appointed by the Secretary of State may comply with the frequencies specified in this paragraph by selecting ships on the basis of national risk-based targeting mechanisms and of specific alerts on individual ships.”;

- (d) in paragraph 3(b)—
 - (i) for “relevant Member State” substitute “United Kingdom”;
 - (ii) omit the unnumbered paragraph;
 - (e) in paragraph 4—
 - (i) for “a Member State” substitute “the Secretary of State”;
 - (ii) for “the Union” substitute “a”;
 - (f) omit paragraph 5.
- (5) In Article 4 (frequency of sampling of marine fuels while being delivered to ships)—
- (a) in paragraph 1—
 - (i) for “Article 6(1a)(b) of Directive 1999/32/EC” substitute “Article 13(2) of Directive (EU) 2016/802”;
 - (ii) for “Member States” substitute “the Secretary of State or persons appointed by the Secretary of State”;
 - (iii) for “that Member State” substitute “the United Kingdom”;
 - (iv) omit the words “on the basis of the reporting in the Union information system or in the annual report referred to in Article 7”;
 - (b) omit paragraph 2.
- (6) In paragraph 1 of Article 5 (sampling methods for the verification of the sulphur content of the marine fuel being used on board) for “Member States” substitute “the Secretary of State or persons appointed by the Secretary of State”.
- (7) In Article 6 (on-board spot sampling), in each place it occurs, for “Member States” substitute “The Secretary of State or persons appointed by the Secretary of State”.
- (8) In Article 7 (information to be included in the annual report)—
- (a) for the first unnumbered paragraph substitute—

“The Secretary of State must publish an annual report on compliance with sulphur standards for marine fuels. The report must include at least the following information:”;
 - (b) for paragraph (c) substitute—

“(c) claims of non-availability of marine fuels as referred to in Article 6(8) of Directive (EU) 2016/802, including—

 - (i) the ship details;
 - (ii) bunkering port;
 - (iii) if the non-availability occurred in the United Kingdom or a Member State, where the non-availability occurred;
 - (iv) number of claims made by the same ship; and
 - (v) type of bunker unavailable;”;
 - (c) in paragraph (e) for “relevant Member State” substitute “United Kingdom”;
 - (d) in paragraph (f) for “Directive 1999/32/EC of the ships flying the flag of the Member State” substitute “Directive (EU) 2016/802 of United Kingdom ships”.
- (9) Omit Article 8 (format of the report).

Signed by authority of the Secretary of State for Transport

Date

Name
Parliamentary Under Secretary of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

The provision made by Part 2 of these Regulations is made under section 2(2) of the European Communities Act 1972 (c. 68) in order to update references to Directive 1999/32/EC, which was repealed and replaced (without substantive amendment) by Directive (EU) 2016/802 (O.J. No L 132, 21.05.2016, p. 58), and update an out-of-date reference to the EEA agreement in the Transport and Works Act 1992 (c. 42).

The remaining Regulations are made in exercise of the powers in section 8 of the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a) and 8(2)(g)) arising from the withdrawal of the United Kingdom from the European Union. Part 3 amends primary legislation, Part 4 amends secondary legislation and Part 5 amends retained EU Regulations and Decisions. The amendments are made to legislation governing environmental impact assessments for certain transport purposes and legislation on the sulphur content of marine fuels and prohibited anti-fouling systems.

An Impact Assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen. An Explanatory Memorandum has been published alongside these Regulations and is available with these Regulations on www.legislation.gov.uk.

© Crown copyright 2018

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

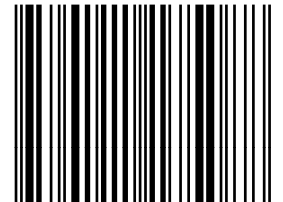
£6.90

UK201811231001 11/2018 19585

<http://www.legislation.gov.uk/id/ukdsi/2018/9780111175088>

Tudalen y pecyn 166

ISBN 978-0-11-117508-8



9 780111 175088

EXPLANATORY MEMORANDUM TO
THE MERCHANT SHIPPING AND OTHER TRANSPORT (ENVIRONMENTAL PROTECTION) (AMENDMENT) (EU EXIT) REGULATIONS 2018

2018 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument ensures that environmental protection provisions relating to air pollution (specifically the sulphur content of marine fuels) and anti-fouling systems are legally operable when the United Kingdom withdraws from the European Union. It also corrects minor deficiencies in transport legislation governing environmental impact assessment for transport and works.

Explanations

What did any relevant EU law do before exit day?

2.2 Environmental impact assessment is a process well-established in domestic legislation and planning practice, which requires that proposals which are likely to have a significant effect on the environment by virtue of (for example) their nature, size or location are subject to an assessment of those effects before development consent for the project is granted.

2.3 This instrument amends the following transport-related legislation, which implements Directive 2011/92/EU on environmental impact assessments, as amended by Directive 2014/52/EU:

- provisions of Part 1 of the Transport and Works Act 1992; and
- the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006.

2.4 The above legislation put in place the requirements for environmental impact assessments relating to applications for Transport and Works Act Orders.

2.5 The Merchant Shipping (Prevention of Air Pollution on Ships) Regulations 2008 (“the 2008 Regulations”) implement, in part, Directive 1999/32/EC (subsequently repealed and replaced by Directive (EU) 2016/802) relating to a reduction in the sulphur content of certain liquid fuels. They apply a limit to the sulphur content of marine fuel which may be used by UK ships and in UK waters and put in place requirements relating to emissions abatement technologies.

2.6 Commission Implementing Decision (EU) 2015/253 (“the 2015 Sulphur Decision”) laid down rules concerning the sampling and reporting of the sulphur content of marine fuels under Council Directive 1999/32/EC. Its provisions set out the frequency with which marine fuels should be sampled by Member State authorities, the methods to be used to verify the sulphur content of fuel, procedural requirements for carrying out sampling and reporting formalities.

- 2.7 Regulation (EC) 782/2003 (“the 2003 AFS Regulation”) prohibits the application of organotin compounds to inhibit the growth of organisms on ships’ hulls and sets out an enforcement regime. It is implemented, to the extent necessary, by the Merchant Shipping (Anti-Fouling Systems) Regulations 2009 (“the 2009 Regulations”). Together, these instruments prohibit the application of prohibited anti-fouling systems to the hulls of ships and put in place a survey and certification regime and enforcement provisions.
- 2.8 Commission Regulation (EC) 536/2008 (“the 2008 AFS Regulation”) governs the relationship between the 2003 AFS Regulation and the International Convention on the Control of Anti-Fouling Systems on Ships (“the AFS Convention”) which, at the time the 2003 and 2008 AFS Regulations were enacted, had not yet come into force. It clarifies that, when the AFS Convention comes into force (as it did in September 2008), compliance with the 2008 AFS Regulation could be demonstrated through compliance with the AFS Convention.

Why is it being changed?

- 2.9 The legislation on environmental impact assessments contains a number of references to Member States which will be inoperable when the United Kingdom is no longer a Member State. It also refers to provisions of EU Directives which will contain similar deficiencies.
- 2.10 The 2008 Regulations and 2015 Sulphur Decision contain a number of references to Member States which will be inoperable when the United Kingdom is no longer a Member State.
- 2.11 The 2003 AFS Regulation is stated to apply to ships flying the flag of an EU Member State; as such, without amendment, the Regulation would cease to apply to UK-flagged ships. It also contains a number of references to Member States, for example in relation to the appointment of inspectors empowered to enforce the prohibition. It also gives the European Commission the power to update the Regulation in line with the AFS Convention, and contains obligations to provide reports to the European Commission. The 2009 Regulations and 2008 AFS Regulation similarly contain a number of references to Member States and reporting obligations.

What will it now do?

- 2.12 The effect of all amendments made by this instrument is to ensure that the status quo continues to operate once the United Kingdom withdraws from the European Union. The amendments ensure that existing obligations continue to apply, that necessary functions of the European Commission can now be undertaken by the Secretary of State, and that redundant requirements are extinguished.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 The territorial application of this instrument varies between provisions.

3.3 The powers under which this instrument is made cover the entire United Kingdom (see section 24 of the European Union (Withdrawal) Act 2018). Regulations 2, 4 and 5 apply in England and Wales only. All other provisions apply in England and Wales, Scotland and Northern Ireland.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales, Scotland and Northern Ireland.

4.2 The territorial application of regulations 3 and 6 to 10 is the United Kingdom and United Kingdom ships wherever they may be. The territorial application of regulations 2, 4 and 5 is England and Wales only.

5. European Convention on Human Rights

5.1 Nusrat Ghani, Parliamentary Under Secretary of State for Transport, has made the following statement regarding Human Rights:

5.2 “In my view the provisions of the Merchant Shipping and Other Transport (Environmental Protection) (Amendment) (EU Exit) Regulations 2018 are compatible with the Convention rights.”

6. Legislative Context

6.1 These Regulations are made in exercise of powers in section 8 of the European Union (Withdrawal) Act 2018.

6.2 The European Union (Withdrawal) Act 2018 makes provision for repealing the European Communities Act 1972 and will preserve EU law as it stands at the moment of withdrawal, converting this into UK law. It enables the creation of a new body of domestic legislation by converting the text of directly applicable EU legislation into domestic instruments, as well as saving EU-derived domestic legislation which were made to implement the UK’s obligations as an EU Member State.

6.3 The European Union (Withdrawal) Act 2018 also contains powers to make secondary legislation to enable Ministers and the devolved administrations to fix deficiencies in retained EU law, to ensure that the UK’s legal system continues to function properly outside of the EU. The European Union (Withdrawal) Act 2018 does not preserve EU directives. Changes made under section 8 of that Act are therefore made to relevant legislation which implements an EU directive in the UK.

6.4 This instrument corrects a number of legal deficiencies in transport legislation relating to environmental protection. Those deficiencies are found both in EU-derived domestic legislation and in direct EU legislation which will become retained EU law upon EU Exit. It makes only those changes necessary to preserve the legal status quo.

6.5 This instrument also relies on powers under section 2(2) of the European Communities Act 1972 in order to update references to Council Directive 1999/32/EC, which was repealed and replaced on 21st May 2016 by consolidated Directive (EU) 2016/802 (O.J. No. L 132, 21.05.2016, p. 58) and an out of date reference to the Agreement on the European Economic Area. These provisions are contained in Part 2 of the instrument.

7. Policy background

What is being done and why?

- 7.1 This instrument is designed to ensure that the existing regulatory framework for transport environmental protection remains operable in UK law when the UK withdraws from the European Union. It does this by amendment to primary legislation, existing statutory instruments and retained EU Regulations and Decisions.
- 7.2 Regulations 2, 4 and 5 amend the following existing transport legislation relating to environmental impact assessments:
- Part 1 of the Transport and Works Act 1992; and
 - The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (S.I. 2006/1466).
- 7.3 These amendments ensure that the UK continues to take a coordinated and streamlined approach to environmental impact assessments where an assessment is required under more than one aspect of EU law. For example, where the obligation arises under both transport legislation and protection of habitats legislation, information can be used for both assessments rather than having to be collected twice. The amendments also ensure that where a UK project is likely to have significant environmental effects on an EU Member State, the Secretary of State will continue to consult that country before deciding whether to grant permission for that project.
- 7.4 In relation to maritime environmental provisions, this draft instrument amends the following legislation in relation to the sulphur content of marine fuels:
- The Merchant Shipping (Prevention of Air Pollution from Ships) Regulations 2008 (S.I. 2008/2924) (“the 2008 Regulations”); and
 - Commission Implementing Decision (EU) 2015/253 of 16th February 2015 laying down the rules concerning the sampling and reporting under Council Directive 1999/32/EC as regards the sulphur content of marine fuels (O.J. No. L 41, 17.02.2015, p. 55) (“the 2015 Sulphur Decision”).
- 7.5 In relation to anti-fouling systems, the draft instrument amends the following legislation:
- The Merchant Shipping (Anti-Fouling Systems) Regulations 2009 (S.I. 2009/2796) (“the 2009 Regulations”);
 - Regulation (EC) 782/2003 of the European Parliament and of the Council of 14th April 2003 on the prohibition of organotin compounds on ships (O.J. No. L 115, 09.05.2003, p. 1) (“the 2003 AFS Regulation”); and
 - Commission Regulation (EC) 536/2008 of 13th June 2008 giving effect to Article 6(3) and Article 7 of the Regulation (EC) No 782/2003 of the European Parliament and of the Council on the prohibition of organotin compounds on ships (O.J. No. L 156, 14.06.2008, p. 10) (“the 2008 AFS Regulation”).
- 7.6 This instrument makes amendments necessary to ensure that the existing regulatory framework for maritime environmental protection is retained, and operates effectively, following the UK’s exit from the European Union. In addition to ensuring that the same regulatory requirements continue to apply to UK-registered ships, the

amendments also ensure that UK regulators are able to enforce these standards against foreign vessels in UK waters, including EU vessels. The amendments:

- replace references to Member States with the Secretary of State or the United Kingdom in order to ensure that regulatory requirements continue to apply within the UK when it is no longer a Member State;
- insert, omit or amend definitions to ensure compatibility or consistency with other legislation;
- omit or amend wording to reflect that the United Kingdom will no longer be in the European Union or the European Economic Area;
- ensure that the UK continues to recognise emissions abatement methods approved by EU Member States;
- ensure that specified marine diesel engines in recreational or pleasure craft will continue to benefit from an exemption from certain regulatory requirements;
- remove what will become redundant requirements on the UK to make reports to the Commission;
- remove what will become redundant references to EU databases (SafeSeaNet) which we will no longer have access to, whilst ensuring that their role is replicated domestically; and
- transfer to the Secretary of State, Commission powers to amend references to provisions of international law governing the use of anti-fouling systems.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is being made using the power in section 8 of 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 has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

8.2 Alongside the European Union (Withdrawal) Act 2018 powers the instrument is also being made under section 2(2) of the European Communities Act 1972. These provisions, contained in Part 2 of the instrument, update references to Council Directive 1999/32/EC, which was repealed and replaced on 21st May 2016 by Directive (EU) 2016/802 (O.J. No. L 132, 21.05.2016, p. 58) and an out of date reference to the Agreement on the European Economic Area.

9. Consolidation

9.1 There are currently no plans to consolidate the legislation amended by this instrument.

10. Consultation outcome

10.1 No formal consultation has been carried out, as the instrument maintains the regulatory status quo and ensures that those to whom the amended instruments apply are able to continue to carry on activities within the same regime once the UK withdraws from the European Union.

10.2 Regulations 2, 4 and 5, which amend the Transport and Works Act 1992 and the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006, operate in areas which are devolved to Wales (rail transport, canals and inland waterways and planning). The Welsh Government has been consulted and is content for this instrument to be made.

11. Guidance

11.1 The Department for Transport is not producing any specific guidance on the amendments provide for in this instrument as there are no new requirements for industry which require explanation.

12. Impact

12.1 The impact on business, charities or voluntary bodies in respect of the changes made by these Regulations are limited to minor familiarisation costs.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because there is no, or no significant impact, as the instrument relates to the maintenance of existing regulatory standards.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses. The basis for the final decision on what action to take to assist small businesses is that the impact on business, charities or voluntary bodies in respect of the changes made by these Regulations are limited to minor familiarisation costs as this instrument maintains the current regulatory position.

14. Monitoring & review

14.1 To the extent that this instrument is made under the European Union (Withdrawal) Act 2018, no review clause is required.

14.2 Regulation 2, which is made under section 2(2) of the European Communities Act 1972, amends primary legislation and as such section 28 of the Small Business Enterprise and Employment Act 2015 is not engaged.

14.3 Regulation 3, which is made under section 2(2) of the European Communities Act 1972, amends an instrument which contains its own review provision and so in accordance with paragraph 14(c) of the 'Statutory Guidance under s.31 of the Small Business, Enterprise and Employment Act' no additional review provision is included in these Regulations. The amendments introduced by regulation 3 will be reviewed as part of the review of the instrument which it amends.

15. Contact

15.1 Ian Timpson at the Department for Transport (telephone: 020 7944 4446 or email: Ian.Timpson@dft.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Tom Newman-Taylor at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

Nusrat Ghani, Parliamentary Under Secretary of State at the Department for Transport, can confirm that this Explanatory Memorandum meets the required standard.

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 under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/ESIC
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly 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	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	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	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State 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	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	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	Ministers of the Crown exercising sections 8(1), 9, and 23(1) or jointly exercising	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		powers in Schedule 2 to create a criminal offence	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s.2(2) ECA, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s.2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

- 1.1 No sifting statement is required as this instrument is subject to approval by each House of Parliament, by virtue of paragraph 1 of Schedule 7 to the European Union (Withdrawal) Act 2018.

2. Appropriateness statement

- 2.1 The Parliamentary Under Secretary of State for Transport, Nusrat Ghani, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Merchant Shipping and Other Transport (Environmental Protection) (EU Exit) (Amendment) Regulations 2018 do no more than is appropriate.”

- 2.2 This is the case because it makes technical changes which do no more than necessary to ensure that transport-related environmental protection legislation is able to operate effectively following the United Kingdom’s withdrawal from the European Union.

3. Good reasons

- 3.1 The Parliamentary Under Secretary of State for Transport, Nusrat Ghani, 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”.

- 3.2 These are that the provisions do no more than is necessary to correct legal deficiencies. Without these corrections, substantial parts of transport-related environmental protection legislation would be inoperable or inapplicable following the United Kingdom’s withdrawal from the European Union.

4. Equalities

- 4.1 The Parliamentary Under Secretary of State for Transport, Nusrat Ghani, 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.”

- 4.2 The Parliamentary Under Secretary of State for Transport, Nusrat Ghani, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the draft instrument, I, Nusrat Ghani, 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 section 2 of the main body of this explanatory memorandum.

6. Criminal offences

6.1 This draft instrument does not create any criminal offences.

7. Legislative sub-delegation

7.1 This draft instrument does not create any sub-delegated powers.

8. Urgency

8.1 This draft instrument is not being made urgently.

UK MINISTERS ACTING IN DEVOLVED AREAS

Rheoliadau Llongau Masnach a Thrafnidiaeth Arall (Diogelu'r Amgylchedd) (Diwygio) (Ymadael â'r UE) 2018

Dyddiad gosod yn Senedd y DU: 27 Tachwedd 2018

Sifftio

A fydd angen eu sifftio yn Senedd y DU? Na fydd

Gweithdrefn: Cadarnhaol

Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Tŷ'r Cyffredin Amh.

Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi Anhysbys

Y dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU Amh.

Datganiad ysgrifenedig o dan Reol Sefydlog 30C: Papur x

Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol) Papur x

Gweithdrefn graffu

Canlyniad y broses sifftio Amh.

Y weithdrefn Cadarnhaol

Dyddiad trafod gan y Cyd-bwyllgor ar Offerynnau Statudol Anhysbys

Dyddiad trafod gan Bwyllgor Offerynnau Statudol Tŷ'r Cyffredin Anhysbys

Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi Anhysbys

Sylwadau

Bwriedir i'r Rheoliadau gael eu gwneud gan Lywodraeth y DU yn unol ag adran 8 (1) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

Mae'r Rheoliadau'n diwygio deddfwriaeth ddomestig a chyfraith yr UE a gedwir mewn perthynas â rhai agweddau trafndiaeth ar ddeddfwriaeth asesiadau effaith amgylcheddol. Maent hefyd yn diwygio rhai diffygion mân. Mae'r ddeddfwriaeth yn gwneud cyfeiriadau amrywiol at Aelod-wladwriaethau'r UE a darpariaethau cyfraith yr UE. Ni fydd modd gweithredu'r cyfeiriadau hynny pan fydd y DU yn ymadael â'r Undeb Ewropeaidd. Yn unol â hynny, bydd cyfeiriadau at Aelod-wladwriaethau yn dod yn gyfeiriadau at yr Ysgrifennydd Gwladol.

Mae Cynghorwyr Cyfreithiol yn gwneud y sylwadau a ganlyn mewn perthynas â datganiad Llywodraeth Cymru dyddiedig 29 Tachwedd 2018

ynghylch effaith y Rheoliadau hyn: Nid yw'r datganiad yn esbonio y bydd cyfeiriadau at Aelod-wladwriaethau yn dod yn gyfeiriadau at yr Ysgrifennydd Gwladol.

Mae'r crynodeb uchod a chynnwys y Memorandwm Esboniadol i'r Rheoliadau hyn yn cadarnhau eu heffaith ac i ba raddau y byddai'r Rheoliadau hyn yn creu polisi newydd mewn meysydd datganoledig.

Nid yw'r Cynghorwyr Cyfreithiol yn ystyried bod unrhyw faterion arwyddocaol yn codi o dan baragraff 8 o'r Memorandwm ar Fil yr Undeb Ewropeaidd (Ymadael) a Sefydlu Fframweithiau Cyffredin mewn perthynas â'r Rheoliadau hyn.

Nid yw'r Cynghorwyr Cyfreithiol wedi nodi unrhyw reswm cyfreithiol i geisio cynnig cydsyniad o dan Reol Sefydlog 30A.10 mewn perthynas â'r Rheoliadau hyn.



DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL Rheoliadau'r Polisi Amaethyddol Cyffredin a'r Bwrdd Datblygu Amaethyddiaeth a Garddwriaeth (Diwygio Etc.) (Ymadael â'r UE) 2018

DYDDIAD 26 Tachwedd 2018

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

Rheoliadau'r Polisi Amaethyddol Cyffredin a'r Bwrdd Datblygu Amaethyddiaeth a Garddwriaeth (Diwygio Etc.) (Ymadael â'r UE) 2018

Y Gyfraith sy'n cael ei diwygio

Deddfwriaeth ddomestig sy'n berthnasol i'r DU gyfan:

Mae'r offerynnau a ganlyn yn cael eu diwygio:

- Gorchymyn y Bwrdd Datblygu Amaethyddiaeth a Garddwriaeth 2008; a
- Rheoliadau'r Polisi Amaethyddol Cyffredin (Rheoli a Gorfodi, Trawsgydymffurfio, Craffu ar Drafodiadau ac Apeliadau) 2014.

Mae Rheoliadau'r Polisi Amaethyddol Cyffredin (Awdurdod Cymwys a Chorff Cydgysylltu) 2014 yn cael eu dirymu.

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

Mae amaethyddiaeth yn fater datganoledig.

Nid yw'r offeryn hwn yn trosglwyddo swyddogaethau. Os bydd angen trosglwyddo swyddogaethau, bydd offeryn ar wahân yn ymdrin â hynny.

Diben y diwygiadau

Mae'r offeryn hwn yn mynd i'r afael â methiannau cyfraith yr UE sydd wedi'i dargadw i weithredu'n effeithiol a hefyd â diffygion eraill sy'n deillio o'r ffaith bod y DU yn ymadael â'r UE. Mae'n ymdrin â chywiriadau sy'n dechnegol o ran eu natur ac nad ydynt yn gwneud unrhyw newidiadau polisi arwyddocaol. Mae'r cywiriadau hyn, yn hytrach, yn addasu'r is-ddeddfwriaeth ddomestig (DU) hon i gynnwys telerau (cytunedig) newydd i sicrhau y bydd rhaglenni'r UE yn parhau i gael eu cyllido am weddill rhaglen 2014 i 2020, os na fydd cytundeb o ran Brexit. Yr OS hwn yw Offeryn Statudol cywiro cyntaf y DU sydd wedi'i gynnwys yn rhan o'r pecyn ehangach i gywiro'r Polisi Amaethyddol Cyffredin.

Mae'r OS a'r Memorandwm Esboniadol sy'n mynd gydag ef, ac sy'n nodi effaith pob un o'r diwygiadau, ar gael yma: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-common-agricultural-policy-and-agriculture-and-horticulture-development-board-amendment-etc-eu-exit-regulations-2018>

Pam y rhoddwyd cydsyniad

Rhoddwyd cydsyniad i Lywodraeth y DU wneud y cywiriadau hyn o ran, ac ar ran, Cymru am resymau'n ymwneud ag effeithlonrwydd, hwylustod ac oherwydd natur dechnegol y diwygiadau. Mae'r diwygiadau wedi cael eu hystyried yn llawn; ac nid oes unrhyw wahaniaeth o ran polisi. Diben y diwygiadau hyn yw sicrhau bod y llyfr statud yn parhau i weithio ar ôl i'r DU ymadael â'r UE. Mae hyn yn unol â'r egwyddorion ar gyfer cywiro y cytunwyd arnynt ym mis Mai gan Is-bwyllgor y Cabinet ar Bontio Ewropeaidd.

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

**31 - Rheoliadau'r Polisi Amaethyddol Cyffredin a'r Bwrdd Datblygu
Amaethyddiaeth a Garddwriaeth (Diwygio Etc.) (Ymadael â'r UE) 2018**
Dyddiad gosod yn Senedd y DU: 21 Hydref 2018

Sifftio

A fydd angen eu sifftio yn Senedd y DU?	Bydd
Gweithdrefn:	Negyddol arfaethedig
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Tŷ'r Cyffredin	4 Rhagfyr 2018
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	wythnos yn dechrau 3 Rhagfyr 2018
Y dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	6 Rhagfyr 2018
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur xx
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Dim angen

Gweithdrefn graffu

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

Sylwadau

Cynigir bod y Rheoliadau hyn yn cael eu gwneud gan Lywodraeth y DU yn unol ag adran 8(1) o, a pharagraff 21 o Atodlen 7 i, Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

Mae'r Rheoliadau yn diwygio'r tri rheoliad domestig ar wahân (dau yn ymwneud â Lloegr yn unig), ac yn dirymu un, yn ymwneud â gweithredu Polisi Amaethyddol Cyffredin ("**PAC**") yr Undeb Ewropeaidd, a hefyd yn diwygio un Gorchymyn yn ymwneud â'r Bwrdd Datblygu Amaethyddiaeth a Garddwriaeth, er mwyn sicrhau bod y ddeddfwriaeth yn gweithredu'n barhaus yn dilyn y DU yn gadael yr Undeb Ewropeaidd. I'r graddau y mae'r Rheoliadau hyn yn ymwneud â Chymru, mae'r Rheoliadau hyn:

- yn diwygio Gorchymyn Bwrdd Datblygu Amaethyddiaeth a Garddwriaeth 2008, i wneud newidiadau technegol a hefyd i gael

gwared ar ardoll cig coch y Bwrdd Datblygu Amaethyddiaeth a Garddwriaeth ar anifeiliaid sy'n cael eu mewnfario o weddill y byd ar gyfer cigyddu tymor byr. Mae hyn yn sicrhau triniaeth gyfartal rhwng yr UE a gweddill y byd ar ôl gadael yr UE;

- diwygio Rheoliadau'r Polisi Amaethyddol Cyffredin (Rheoli a Gorfodi, Trawsgydymffurfio, Craffu ar Drafodiadau ac Apelau) 2014 i wneud nifer o newidiadau technegol fel diwygio cyfeiriadau at gronfeydd Ewropeaidd na fydd y DU yn gallu cael mynediad iddynt ar ôl gadael yr UE, cael gwared ar hawliau cynrychiolwyr y Comisiwn Ewropeaidd i fynd i mewn i'r safleoedd, a mân ddiwygiadau eraill; a
- dirymu Rheoliadau'r Polisi Amaethyddol Cyffredin (Awdurdod Cymwys a Chorff Cydgysylltu) 2014, a fydd yn ddiangen ar ôl gadael yr UE.

Mae'r memorandwm esboniadol sy'n cyd-fynd â'r Rheoliadau hyn yn nodi bod y Rheoliadau yn angenrheidiol er mwyn sicrhau bod y rhai sy'n rhan o gynllun PAC yn parhau i gael eu talu ar ôl gadael yr UE.

Mae Cynghorwyr Cyfreithiol yn cytuno â'r datganiad a osodwyd gan Lywodraeth Cymru dyddiedig 26 Tachwedd 2018 ynghylch effaith y Rheoliadau hyn.

Mae'r crynodeb uchod a chynnwys y Memorandwm Esboniadol i'r Rheoliadau hyn yn cadarnhau eu heffaith ac i ba raddau y byddai'r Rheoliadau hyn yn deddfu polisi newydd mewn meysydd datganoledig.

Nid yw Cynghorwyr Cyfreithiol o'r farn bod unrhyw faterion sylweddol yn codi o dan baragraff 8 o'r Memorandwm ar Fil yr Undeb Ewropeaidd (Ymadael) a Sefydlu Fframweithiau Cyffredin mewn perthynas â'r Rheoliadau hyn.

Nid yw Cynghorwyr Cyfreithiol wedi nodi unrhyw reswm cyfreithiol i geisio am gynnig cydsyniad o dan Reol Sefydlog 30A.10 mewn perthynas â'r Rheoliadau hyn.



DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL	Rheoliadau Sefydliadau Ewropeaidd a Gwarchodaeth Gonsylaidd (Diwygio etc.) (Ymadael â'r UE) 2018
DYDDIAD	27 Tachwedd 2018
GAN	Julie James AC, Arweinydd y Tŷ a'r Prif Chwip

Rheoliadau Sefydliadau Ewropeaidd a Gwarchodaeth Gonsylaidd (Diwygio etc.) (Ymadael â'r UE) 2018

Cyfraith yr UE a ddargedwir sy'n cael ei diwygio

Diddymu ac arbedion yn achos hawliau cytuniad perthnasol sy'n uniongyrchol effeithiol, a ddargedwir o dan adran 4(1) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

Cyngor y Gymuned Economaidd Ewropeaidd: Rheoliad Rhif 1 yn pennu'r ieithoedd sydd i'w defnyddio gan y Gymuned Economaidd Ewropeaidd.

Cyfeiriadau yng nghyfraith yr UE a ddargedwir at ieithoedd swyddogol ac ieithoedd gwaith y Gymuned Ynni Atomig Ewropeaidd.

Rheoliad (EEC, Euratom) Rhif 1182/71 y Cyngor, 3 Mehefin 1971, yn pennu'r rheolau sy'n gymwys i gyfnodau, dyddiadau a therfynau amser.

Dirymu amrywiol deddfwriaeth uniongyrchol yr UE a ddargedwir, fel y nodir yn yr Atodlen.

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

Ni fydd yr OS hwn yn cael unrhyw effaith ar gymhwysedd deddfwriaethol y Cynulliad nac ar gymhwysedd gweithredol Gweinidogion Cymru.

Diben y diwygiadau

Diben y diwygiadau yw cywiro diffygion mewn deddfwriaeth sy'n codi wrth i'r DU ymadael â'r Undeb Ewropeaidd mewn perthynas â gweithrediad sefydliadau'r Undeb Ewropeaidd.

Mae'r Offeryn Statudol a'r Memorandwm Esboniadol sy'n mynd gydag ef, ac sy'n nodi effaith pob un o'r diwygiadau, ar gael yma: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-european-institutions-and-consular-protection-amendment-etc-eu-exit-regulations-2018>

Pam y rhoddwyd cydsyniad

Rhoddwyd cydsyniad i Lywodraeth y DU wneud y cywiriadau hyn mewn perthynas â Chymru, ac ar ei rhan, am resymau'n ymwneud ag effeithlonrwydd a hwylustod ac oherwydd natur dechnegol y diwygiadau. Mae'r diwygiadau wedi'u hystyried yn llawn ac nid oes gwahaniaeth o ran y polisi. Diben y diwygiadau hyn yw sicrhau bod y llyfr statud yn parhau'n weithredol ar ôl i'r DU ymadael â'r UE. Mae hyn yn unol â'r egwyddorion ar gyfer cywiro y cytunwyd arnynt gan Is-bwyllgor y Cabinet ar Bontio Ewropeaidd ym mis Mai.

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

**Rheoliadau Sefydliadau Ewropeaidd a Gwarchodaeth Consylaidd
(Diwygio etc.) (Ymadael â'r UE) 2018**

Dyddiad gosod yn Senedd y DU: 26 Tachwedd 2018

Sifftio

A fydd angen sifftio yn Senedd y DU?	Bydd
Gweithdrefn:	Negyddol arfaethedig
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Ty'r Cyffredin	11 Rhagfyr 2018
Dyddiad trafod gan Bwyllgor Craffu ar Is-deddfwriaeth Ty'r Arglwyddi	
Dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	12 Rhagfyr 2018
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur xx
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Dim angen

Gweithdrefn graffu

Canlyniad y broses sifftio	Ddim yn hysbys
Y weithdrefn	Negyddol neu Gadarnhaol
Dyddiad trafod gan y Cyd-bwyllgor ar Offerynnau Statudol	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ty'r Cyffredin	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Craffu ar Is-deddfwriaeth Ty'r Arglwyddi	Ddim yn hysbys

Sylwadau

Bwriedir i'r Rheoliadau hyn gael eu gwneud gan Lywodraeth y DU o dan adran 8(1), a pharagraff 21(b) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

Mae'r OS wedi'i ddrafftio ar sail sefyllfa o ddim cyntundeb lle mae'r DU yn peidio â bod yn rhan o unrhyw un o sefydliadau a chyrrff yr UE. Os cytunir ar gytundeb ymadael lle mae'r DU yn negodi i barhau'n rhan o rai o'r sefydliadau a'r cyrrff hynny, yna gall rhannau o'r offeryn hwn gael eu gohirio neu eu dirymu.

Mae'r offeryn hwn yn dirymu, yn diwygio neu'n gwneud arbedion mewn perthynas â Hawliau Cytuniad Uniongyrchol Effeithiol (DETRs) sy'n deillio o Erthyglau'r Cytuniad ar Weithrediad yr Undeb Ewropeaidd a'i Brotocolau

("TFEU"). Mae hefyd yn gwneud diwygiadau neu ddirymiadau mewn perthynas â chyfraith uniongyrchol yr Undeb Ewropeaidd ("RDEUL") sy'n cael eu cadw sy'n ymwneud â gweithrediad sefydliadau a chyrff yr Undeb Ewropeaidd a chymhwyso ei reolau yn neddfwriaeth yr UE.

Mae'r offeryn hwn hefyd yn mynd i'r afael â dwy Erthygl nad ydynt yn uniongyrchol gysylltiedig â sefydliadau'r UE ond sy'n ymwneud â diogelwch consylaidd mewn gwledydd nad ydynt yn rhan o'r UE. Mae'r rhain yn darparu, os yw dinesydd yr UE mewn gwlad y tu allan i'r UE, lle nad oes gan eu gwlad gynrychiolaeth gonsylaidd neu ddiplomyddol, yna mae gan ddinesydd yr UE hawl i amddiffyniad gan awdurdodau diplomyddol neu gonsylaidd unrhyw Aelod-wladwriaeth, ar yr un amod â gwladolion y Wladwriaeth honno.

Mae'r offeryn hwn hefyd yn mynd i'r afael â phrotocolau sy'n ymwneud â Llys Cyfiawnder yr Undeb Ewropeaidd a breintiau a breinryddid yr Undeb Ewropeaidd.

Mae Cynghorwyr Cyfreithiol yn gwneud y sylwadau canlynol mewn perthynas â datganiad Llywodraeth Cymru dyddiedig 30 Tachwedd 2018 ynghylch effaith y Rheoliadau hyn:

Mae paragraff 10.1 y Memorandwm Esboniadol yn nodi, yn unol â'r Cytundeb Rhynglywodraethol ar Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 ("EUWA"), yr ymgynghorwyd â Llywodraeth Cymru ynghylch y Rheoliadau hyn. Rhoddodd Llywodraeth Cymru ganiatâd i lywodraeth y DU, mewn llythyr gan Mark Drakeford AC dyddiedig 22 Tachwedd 2018. Er gwaethaf y gofyniad i ymgynghori, nid yw datganiad Llywodraeth Cymru yn nodi pa bwerau deddfwriaethol y Cynulliad neu bwerau gweithredol Gweinidogion Cymru y mae'r offeryn hwn yn effeithio arnynt. Mewn gwirionedd, ymddengys bod yr offeryn yn ymwneud â meysydd nad ydynt wedi eu datganoli. Mae cynghorwyr cyfreithiol yn argymhell y dylid ceisio eglurhad ynghylch pa bwerau datganoledig yr effeithir arnynt.

Er bod datganiad Llywodraeth Cymru yn nodi nad oes unrhyw wahaniaeth rhwng Llywodraeth Cymru a Llywodraeth y DU ar y polisi ar gyfer cywiro, nid yw'r datganiad yn dangos i ba raddau y mae'r offeryn hwn yn effeithio ar feysydd datganoledig, ac i ba raddau roedd angen caniatâd gan Lywodraeth Cymru. Yr unig beth ddywed y datganiad yw bod caniatâd wedi'i roi am resymau effeithlonrwydd, hwylustod ac oherwydd natur dechnegol y gwelliannau.

Mae'r crynodeb uchod a chynnwys y Memorandwm Esboniadol i'r Rheoliadau hyn yn cadarnhau eu heffaith ac i ba raddau y byddai'r Rheoliadau hyn yn creu polisi newydd mewn meysydd datganoledig.

Nid yw'r Cynghorwyr Cyfreithiol yn ystyried bod unrhyw faterion arwyddocaol yn codi o dan baragraff 8 y Memorandwm ar Fil yr Undeb

Ewropeaidd (Ymadael) a Sefydlu Fframweithiau Cyffredin mewn perthynas â'r Rheoliadau hyn.

Nid yw'r Cynghorwyr Cyfreithiol wedi nodi unrhyw reswm cyfreithiol i geisio cynnig cydsyniad o dan Reol Sefydlog 30A.10 mewn perthynas â'r Rheoliadau hyn.



Llywodraeth Cymru
Welsh Government

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL Rheoliadau Enseffalopathïau Sbyngffurf Trosglwyddadwy a Sgil-gynhyrchion Anifeiliaid (Diwygio) (Ymadael â'r UE) 2018

DYDDIAD 27 Tachwedd 2018

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

Rheoliadau Enseffalopathïau Sbyngffurf Trosglwyddadwy a Sgil-gynhyrchion Anifeiliaid (Diwygio) (Ymadael â'r UE) 2018

Y Gyfraith sy'n cael ei diwygio

- Rheoliad (EC) Rhif 999/2001
- Penderfyniad y Comisiwn 2007/453
- Penderfyniad y Comisiwn 2009/719
- Rheoliad (EC) Rhif 1069/2009

- Rheoliad y Comisiwn (EU) Rhif 142/2011
- Cytundeb yr AEE

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

Mae Enseffalopathïau Sbyngffurf Trosglwyddadwy a Sgil-gynhyrchion Anifeiliaid yn feysydd lle mae'r cyfrifoldeb wedi'i ddatganoli.

Mae darpariaeth yn yr OS hwn sy'n galluogi Gweinidogion Cymru i arfer swyddogaethau o ran Cymru yn ddilyffethair ac i Weinidogion Cymru roi cydsyniad i'r Ysgrifennydd Gwladol arfer swyddogaethau o ran Cymru.

Byddai swyddogaethau a drosglwyddir i'r Ysgrifennydd Gwladol â chydsyniad yn gyfystyr â swyddogaethau un o Weinidogion y Goron at ddibenion Atodlen 7B i Ddeddf Llywodraeth Cymru 2006. Mae'n bosibl, felly, fod hynny'n ystyriaeth berthnasol yng nghyd-destun cymhwysedd y Cynulliad i ddeddfu yn y meysydd hyn yn y dyfodol.

Diben y diwygiadau

Bydd Rheoliadau Enseffalopathïau Sbyngffurf Trosglwyddadwy a Sgil-gynhyrchion Anifeiliaid (Diwygio) (Ymadael â'r UE) 2018 yn sicrhau y bydd pum darn o ddeddfwriaeth uniongyrchol yr UE yn gwbl weithredol pan fydd y DU yn ymadael â'r UE. Mae'r Rheoliadau hyn ymwneud ag atal clefydau anifeiliaid sy'n fater datganoleddig ac sy'n cael ei weithredu a'i

orfodi gan ddeddfwriaeth ddomestig debyg sy'n deillio o'r UE ym mhob cenedl gyfansoddol y DU.

Mae'r Offeryn Statudol a'r Memorandwm Esboniadol sy'n mynd gydag ef, ac sy'n nodi effaith pob un o'r diwygiadau, ar gael yma: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-transmissible-spongiform-encephalopathies-and-animal-by-products-amendment-etc-eu-exit-regulations-2018>

Pam y rhoddwyd cydsyniad

Rhoddwyd cydsyniad i Lywodraeth y DU wneud y cywiriadau hyn o ran ac ar ran Cymru, am resymau'n ymwneud ag effeithlonrwydd, hwylustod ac oherwydd natur dechnegol y diwygiadau. Mae'r diwygiadau wedi cael eu hystyried yn llawn; ac nid oes unrhyw wahaniaeth o ran polisi. Diben y diwygiadau hyn yw sicrhau bod y llyfr statud yn parhau i weithio ar ôl i'r DU ymadael â'r UE. Mae hyn yn unol â'r egwyddorion ar gyfer cywiro y cytunwyd arnynt ym mis Mai gan Is-bwyllgor y Cabinet ar Bontio Ewropeaidd.

UK MINISTERS ACTING IN DEVOLVED AREAS

The Transmissible Spongiform Encephalopathies and Animal By-Products (Amendment) (EU Exit) Regulations 2018

Laid in the UK Parliament: 22 November 2018

Sifting

Subject to sifting in UK Parliament?	Yes
Procedure:	Proposed negative
Date of consideration by the House of Commons European Statutory Instruments Committee	4 December 2018
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	
Date sifting period ends in UK Parliament	10 December 2018
Written statement under SO 30C:	Paper xx
SICM under SO 30A (because amends primary legislation)	Not required

Scrutiny procedure

Outcome of sifting	Not known
Procedure	Negative or Affirmative
Date of consideration by the Joint Committee on Statutory Instruments	Not known
Date of consideration by the House of Commons Statutory Instruments Committee	Not known
Date of consideration by the House of Lords Secondary Legislation Scrutiny Committee	Not known

Commentary

These Regulations are proposed to be made by the UK Government pursuant to section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018.

These Regulations ensure that the following 5 pieces of direct EU legislation will be fully operable when the UK leaves the EU and relate to animal disease prevention; specifically concerning the control and eradication of transmissible spongiform encephalopathies and to the use, disposal, placing on the market and import of animal by products:

- Regulation (EC) No. 999/2001
- Commission Decision 2007/453
- Commission Decision 2009/719
- Regulation (EC) No. 1069/2009
- Commission Regulations (EU) No. 142/2011

Transmissible spongiform encephalopathies and animal by products are areas of devolved responsibility and implemented in the UK via secondary legislation in each constituent nation of the UK. The Regulations do not enact any new policy.

Legal Advisers agree with the statement laid by the Welsh Government dated 27 November 2018 regarding the effect of these Regulations. The above summary and the content of the Explanatory Memorandum to these Regulations confirm their effect.

Legal Advisers do not consider that any significant issues arise under paragraph 8 of the Memorandum on the European Union (Withdrawal) Bill and the Establishment of Common Frameworks in relation to these Regulations.

Legal Advisers have not identified any legal reason to seek a consent motion under Standing Order 30A.10 in relation to these Regulations.



Llywodraeth Cymru
Welsh Government

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL Rheoliadau Ansawdd Aer (Diwygio Rheoliadau Domestig)
(Ymadael â'r UE) 2018

DYDDIAD 27 Tachwedd 2018

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

Rheoliadau Ansawdd Aer (Diwygio Rheoliadau Domestig) (Ymadael â'r UE) 2018

Y Gyfraith sy'n cael ei diwygio

Rheoliadau Ansawdd Aer (Diwygio Rheoliadau Domestig) (Ymadael â'r UE) 2018

- Rheoliad (EC) Rhif 116/2006
- Penderfyniad Gweithredu'r Comisiwn 2011/850/EC –
- Penderfyniad y Comisiwn 2015/6674/EU
- Cyfarwyddeb (Cyfarwyddeb 2004/42/EC)
- Penderfyniad Gweithredu'r Comisiwn 2012/115/EU
- Cyfarwyddeb (2010/75/EU)
- Cyfarwyddeb (2010/75/EU)

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

Mae gwarchod ansawdd aer yn dod o fewn cymhwysedd.

Diben y diwygiadau

Mae'r offeryn hwn yn gwneud mân ddiwygiadau technegol i'r ddeddfwriaeth bresennol a ddisgrifir uchod i sicrhau ei bod yn gweithio'n iawn pan fydd y DU wedi ymadael â'r UE. Mae'r newidiadau yn yr offeryn hwn yn angenrheidiol megis: diwygio croesgyfeiriadau at ddeddfwriaeth yr UE; diwygio cyfeiriadau at yr UE, sefydliadau'r UE a phrosesau gweinyddol yr UE i gynnwys rhai domestig; diweddarau cyfeiriadau cyfreithiol er mwyn cyfeirio at ddeddfwriaeth ddomestig berthnasol; ac addasu gofynion adrodd y Llywodraeth fel sy'n briodol.

Mae'r Offeryn Statudol a'r Memorandwm Esboniadol sy'n mynd gydag ef, ac sy'n nodi effaith pob un o'r diwygiadau, ar gael yma: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-air-quality-amendment-of-domestic-regulations-eu-exit-regulations-2018>

Pam y rhoddwyd cydsyniad

Rhoddwyd cydsyniad i Lywodraeth y DU wneud y cywiriadau hyn o ran ac ar ran Cymru, am resymau'n ymwneud ag effeithlonrwydd, hwylustod ac oherwydd natur dechnegol y diwygiadau. Mae'r diwygiadau wedi cael eu hystyried yn llawn; ac nid oes unrhyw wahaniaeth o ran polisi. Diben y diwygiadau hyn yw sicrhau bod y llyfr statud yn parhau i weithio ar ôl i'r DU ymadael â'r UE. Mae hyn yn unol â'r egwyddorion ar gyfer cywiro y cytunwyd arnynt ym mis Mai gan Is-bwyllgor y Cabinet ar Bontio Ewropeaidd.

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

**Rheoliadau Ansawdd Aer (Diwygio Rheoliadau Domestig) (Ymadael â'r
UE) 2018**

Dyddiad gosod yn Senedd y DU: 22 Tachwedd 2018

Sifftio

A fydd angen sifftio yn Senedd y DU?	Bydd
Gweithdrefn:	Negyddol arfaethedig
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Ty'r Cyffredin	4 Rhagfyr 2018
Dyddiad trafod gan Bwyllgor Craffu ar Is-deddfwriaeth Ty'r Arglwyddi	
Dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	10 Rhagfyr 2018
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur xx
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Dim angen

Gweithdrefn graffu

Canlyniad y broses sifftio	Ddim yn hysbys
Y weithdrefn	Negyddol neu Gadarnhaol
Dyddiad trafod gan y Cyd-bwyllgor ar Offerynnau Statudol	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ty'r Cyffredin	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Craffu ar Is-deddfwriaeth Ty'r Arglwyddi	Ddim yn hysbys

Sylwadau

Bwriedir i'r Rheoliadau hyn gael eu gwneud gan Lywodraeth y DU o dan adran 8(1), a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

Mae'r Rheoliadau yn diwygio deddfwriaeth ddomestig sy'n gweithredu deddfwriaeth ansawdd aer yr UE i sicrhau ei fod yn parhau i fod yn weithredol ar ôl i'r DU ymadael â'r UE.

Mae Cyngorwyr Cyfreithiol yn gwneud y sylwadau canlynol mewn perthynas â datganiad Llywodraeth Cymru dyddiedig 27 Tachwedd 2018 ynghylch effaith y Rheoliadau hyn:

1. Mae'r datganiad yn crynhoi'n anghywir y ddeddfwriaeth sy'n cael ei diwygio gan y Rheoliadau. Mae'r ddeddfwriaeth a ddiwygiwyd fel a ganlyn: -

- Rheoliadau Safonau Ansawdd Aer 2010;
- Rheoliadau Cynhyrchion Cyfansawdd Organig Ymfflamychol mewn Peintiau, Farnisau a Chyfarpar Ailorffen Cerbydau 2012; a
- Rheoliadau Terfynau Uchaf Allyriadau Cenedlaethol 2018.

2. Er bod Rheoliadau Cynhyrchion Cyfansawdd Organig Ymfflamychol mewn Paentiau, Farnisau a Chyfarpar Ailorffen Cerbydau 2012 a Rheoliadau Terfynau Uchaf Allyriadau Cenedlaethol 2018 yn berthnasol i'r DU, dim ond rheoliadau 3 (a), 23, 24, 25 (4) a 32 o'r Rheoliadau Safonau Ansawdd Aer 2010 sy'n gymwys i Gymru. Dim ond rheoliad 32 a gaiff ei ddiwygio gan y Rheoliadau hyn. Nid yw hyn yn glir o ddatganiad Llywodraeth Cymru.

3. Yn ogystal, nid yw'n glir o'r datganiad yr effaith sydd gan y Rheoliadau ar gymhwysedd deddfwriaethol y Cynulliad a / neu gymhwysedd gweithredol Gweinidogion Cymru.

Mae'r crynodeb uchod a chynnwys y Memorandwm Esboniadol i'r Rheoliadau hyn yn cadarnhau eu heffaith ac i ba raddau y byddai'r Rheoliadau hyn yn creu polisi newydd mewn meysydd datganoledig.

Gan ei fod yn aneglur o ddatganiad Llywodraeth Cymru dyddiedig 27 Tachwedd 2018 yr effaith y gall y Rheoliadau ei chael ar gymhwysedd deddfwriaethol y Cynulliad a / neu gymhwysedd gweithredol Gweinidogion Cymru, nid yw'r Cynghorwyr Cyfreithiol wedi gallu asesu a oes unrhyw faterion arwyddocaol yn codi o dan baragraff 8 y Memorandwm ar Fil yr Undeb Ewropeaidd (Ymadael) a Sefydlu Fframweithiau Cyffredin mewn perthynas â'r Rheoliadau hyn.

Nid yw'r Cynghorwyr Cyfreithiol wedi nodi unrhyw reswm cyfreithiol i geisio cynnig cydsyniad o dan Reol Sefydlog 30A.10 mewn perthynas â'r Rheoliadau hyn.



Llywodraeth Cymru
Welsh Government

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL Rheoliadau Ansawdd Aer (Diwygio Amrywiol a Dirymu Deddfwriaeth Uniongyrchol yr UE a Ddargedwir) (Ymadael â'r UE) 2018

DYDDIAD 27 Tachwedd 2018

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

Rheoliadau Ansawdd Aer (Diwygio Amrywiol a Dirymu Deddfwriaeth Uniongyrchol yr UE a Ddargedwir) (Ymadael â'r UE) 2018

Y Gyfraith sy'n cael ei diwygio

Rheoliadau Ansawdd Aer (Diwygio Amrywiol a Dirymu Deddfwriaeth Uniongyrchol yr UE a Ddargedwir) (Ymadael â'r UE) 2018

- Cyfarwyddeb 2008/50/EC
- Cyfarwyddeb 2004/107/EC
- Cyfarwyddeb 2004/42/EC

Deddfwriaeth Ddomestig

- Rheoliadau Safonau Ansawdd Aer 2010
- Rheoliadau Cyfansoddion Organig Anwedol mewn Paent, Farneisiau a Chynhyrchion Ailorffen Cerbydau 2012
- Rheoliadau Terfynau Uchaf Allyriadau Cenedlaethol 2018

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

Mae gwarchod ansawdd aer yn dod o fewn cymhwysedd.

Diben y diwygiadau

Bydd yr OS hwn (sy'n dilyn y weithdrefn negyddol) yn sicrhau y bydd yn parhau i weithredu'n effeithiol ar ôl i'r Deyrnas Unedig ymadael â'r Undeb Ewropeaidd. Mae hyn yn cynnwys mynd i'r afael â methiannau, megis rhoi cyfeiriadau at awdurdodau domestig yn lle cyfeiriadau at awdurdodau'r UE (ee y Comisiwn).

Mae'r Offeryn Statudol a'r Memorandwm Esboniadol sy'n mynd gydag ef, ac sy'n nodi effaith pob un o'r diwygiadau, ar gael yma: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-air-quality-miscellaneous-amendment-and-revocation-of-retained-direct-eu-legislation-eu-exit-regulations-2018>

Pam y rhoddwyd cydsyniad

Rhoddwyd cydsyniad i Lywodraeth y DU wneud y cywiriadau hyn o ran ac ar ran Cymru, am resymau'n ymwneud ag effeithlonrwydd, hwylustod ac oherwydd natur dechnegol y diwygiadau. Mae'r diwygiadau wedi cael eu hystyried yn llawn; ac nid oes unrhyw wahaniaeth o ran polisi. Diben y diwygiadau hyn yw sicrhau bod y llyfr statud yn parhau i weithio ar ôl i'r DU ymadael â'r UE. Mae hyn yn unol â'r egwyddorion ar gyfer cywiro y cytunwyd arnynt ym mis Mai gan Is-bwyllgor y Cabinet ar Bontio Ewropeaidd.

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

**Rheoliadau Ansawdd Aer (Diwygio Amrywiol a Dirymu Deddfwriaeth
Uniongyrchol yr UE a Ddargedwir) (Ymadael â'r UE) 2018**

Dyddiad gosod yn Senedd y DU: 22 Tachwedd 2018

Sifftio

A fydd angen sifftio yn Senedd y DU?	Bydd
Gweithdrefn:	Negyddol arfaethedig
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Ty'r Cyffredin	4 Rhagfyr 2018
Dyddiad trafod gan Bwyllgor Craffu ar Is-deddfwriaeth Ty'r Arglwyddi	
Dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	10 Rhagfyr 2018
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur xx
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Dim angen

Gweithdrefn graffu

Canlyniad y broses sifftio	Ddim yn hysbys
Y weithdrefn	Negyddol neu Gadarnhaol
Dyddiad trafod gan y Cyd-bwyllgor ar Offerynnau Statudol	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ty'r Cyffredin	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Craffu ar Is-deddfwriaeth Ty'r Arglwyddi	Ddim yn hysbys

Sylwadau

Bwriedir i'r Rheoliadau hyn gael eu gwneud gan Lywodraeth y DU o dan adran 8(1), a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

Mae'r Rheoliadau yn diwygio deddfwriaeth uniongyrchol a gedwir gan yr UE sy'n ymwneud ag ansawdd aer, er mwyn sicrhau ei fod yn parhau i weithredu'n effeithiol yn dilyn ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd. Mae hyn yn cynnwys mynd i'r afael â diffygion, megis cyfeiriadau at awdurdodau'r UE (ee y Comisiwn) yn cael eu disodli gan awdurdodau domestig cyfatebol.

Mae Cynghorwyr Cyfreithiol yn gwneud y sylwadau canlynol mewn perthynas â datganiad Llywodraeth Cymru dyddiedig 27 Tachwedd 2018 ynghylch effaith y Rheoliadau hyn:

1. Mae'r cyfeiriad yn y datganiad i'r gyfraith a gaiff ei diwygio gan y Rheoliadau yn anghywir. Mae'r Rheoliadau yn diwygio a diddymu'r ddeddfwriaeth uniongyrchol Ewropeaidd ganlynol a gedwir yn ôl:-
 - Rheoliad (EC) Rhif 166/2006 Senedd Ewrop a'r Cyngor ynghylch sefydlu Cofrestr Ewropeaidd Gollwng a Throsoglwyddo Llygryddion
 - Penderfyniad 2004/279/EC ynghylch canllawiau ar gyfer gweithredu Cyfarwyddeb 2002/3/EC Senedd Ewrop a'r Cyngor yn ymwneud ag osôn mewn awyr amgylchynol
 - Penderfyniad 2011/850/UE sy'n gosod rheolau ar gyfer Cyfarwyddebau 2004/107/EC a 2008/50/EC Senedd Ewrop a'r Cyngor mewn perthynas â chyfnewid gwybodaeth o'r ddwy ochr ac adrodd ar ansawdd aer amgylchynol
 - Penderfyniad 2012/115/UE sy'n gosod rheolau ynghylch y cynlluniau cenedlaethol trosiannol y cyfeirir atynt yng Nghyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor ar allyriadau diwydiannol
 - Penderfyniad 2012/134/UE sy'n sefydlu'r casgliadau technegau gorau sydd ar gael (BAT) o dan Gyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor ar allyriadau diwydiannol ar gyfer cynhyrchu gwydr
 - Penderfyniad 2012/135/UE sy'n sefydlu'r casgliadau technegau gorau sydd ar gael (BAT) o dan Gyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor ar allyriadau diwydiannol ar gyfer cynhyrchu haearn a dur 2
 - Penderfyniad 2012/249/UE ynglŷn â phenderfynu cyfnodau cychwyn a chau at ddibenion Cyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor ar allyriadau diwydiannol
 - Penderfyniad 2013/84/UE sy'n sefydlu casgliadau'r technegau gorau sydd ar gael (BAT) o dan Gyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor ar allyriadau diwydiannol ar gyfer trin lledr a chrwyn
 - Penderfyniad 2013/163/UE sy'n sefydlu casgliadau'r technegau gorau sydd ar gael (BAT) o dan Gyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor ar allyriadau diwydiannol ar gyfer cynhyrchu sment, calch a magnesiwm ocsid
 - Penderfyniad 2013/732/UE sy'n sefydlu casgliadau'r technegau gorau sydd ar gael (BAT) o dan Gyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor ar allyriadau diwydiannol ar gyfer cynhyrchu chlor-alkali
 - Penderfyniad 2014/687/UE sy'n sefydlu casgliadau'r technegau gorau sydd ar gael (BAT) o dan Gyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor ar gyfer mwydion coed, papur a chardfwrdd
 - Penderfyniad 2014/738/UE sy'n sefydlu casgliadau'r technegau gorau sydd ar gael (BAT) o dan Gyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor ar allyriadau diwydiannol, ar gyfer puro mwyn olew a nwy
 - Penderfyniad 2014/768/UE sy'n sefydlu math, fformat ac amledd y wybodaeth sydd ar gael gan yr Aelod-wladwriaethau am dechnegau rheoli allyriadau integredig a gymhwysir mewn

purfeydd mwyn olew a nwy, yn unol â Chyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor

- Penderfyniad 2015/6674/UE sy'n sefydlu fformat cyffredin ar gyfer cyflwyno adroddiadau Aelod-wladwriaeth ar weithredu Cyfarwyddeb 2004/42/EC Senedd Ewrop a'r Cyngor ar gyfyngu ar allyriadau cyfansoddion organig anweddol o ganlyniad i ddefnyddio toddyddion organig mewn rhai paentiau a farneisiau a chynhyrchion ailorffen cerbydau
 - Penderfyniad 2015/2119/UE sy'n sefydlu casgliadau'r technegau gorau sydd ar gael (BAT) o dan Gyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor ar gyfer cynhyrchu panelau sy'n seiliedig ar bren
 - Penderfyniad 2016/902/UE sy'n sefydlu casgliadau'r technegau gorau sydd ar gael (BAT), o dan Gyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor, ar gyfer systemau trin/rheoli dwr gwastraff a nwy gwastraff cyffredin yn y sector cemegol
 - Penderfyniad 2016/1023/UE sy'n sefydlu casgliadau'r technegau gorau sydd ar gael (BAT) o dan Gyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor ar ddiwydiannau metalau anfferus
 - Penderfyniad 2017/302/UE sy'n sefydlu casgliadau'r technegau gorau sydd ar gael (BAT) o dan Gyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor ar gyfer magu dofednod neu foch yn ddwys
 - Penderfyniad 2017/1442/UE sy'n sefydlu casgliadau'r technegau gorau sydd ar gael (BAT) o dan Gyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor ar gyfer gweithfeydd ymlosgi mawr
 - Penderfyniad 2017/2117/UE sy'n sefydlu casgliadau'r technegau gorau sydd ar gael (BAT) o dan Gyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor ar gyfer cynhyrchu cemegau organig o sylwedd
 - Penderfyniad 2018/1135/UE sy'n sefydlu math, fformat ac amllder y wybodaeth sydd ar gael gan yr Aelod-wladwriaethau at ddibenion adrodd ar weithredu Cyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor ar allyriadau diwydiannol
 - Penderfyniad 2018/1147/UE sy'n sefydlu casgliadau'r technegau gorau sydd ar gael (BAT) ar gyfer trin gwastraff, o dan Gyfarwyddeb 2010/75/UE Senedd Ewrop a'r Cyngor 3
 - Penderfyniad 2018/1522 sy'n gosod fformat cyffredin ar gyfer rhaglenni rheoli llygredd aer cenedlaethol o dan Gyfarwyddeb (UE) 2016/2284 Senedd Ewrop a'r Cyngor ar leihau gollyngiadau cenedlaethol llygryddion atmosfferig penodol
 - Atodiad 20 i gytundeb yr AEE
2. Yn ogystal, nid yw'n glir o'r datganiad yr effaith sydd gan y Rheoliadau ar gymhwysedd deddfwriaethol y Cynulliad a / neu gymhwysedd gweithredol Gweinidogion Cymru.

Mae'r crynodeb uchod a chynnwys y Memorandwm Esboniadol i'r Rheoliadau hyn yn cadarnhau eu heffaith ac i ba raddau y byddai'r Rheoliadau hyn yn creu polisi newydd mewn meysydd datganoledig.

Gan ei fod yn aneglur o ddatganiad Llywodraeth Cymru dyddiedig 27 Tachwedd 2018 yr effaith y gall y Rheoliadau ei chael ar gymhwysedd deddfwriaethol y Cynulliad a / neu gymhwysedd gweithredol Gweinidogion Cymru, nid yw'r Cynghorwyr Cyfreithiol wedi gallu asesu a oes unrhyw faterion arwyddocaol yn codi o dan baragraff 8 y Memorandwm ar Fil yr Undeb Ewropeaidd (Ymadael) a Sefydlu Fframweithiau Cyffredin mewn perthynas â'r Rheoliadau hyn.

Nid yw'r Cynghorwyr Cyfreithiol wedi nodi unrhyw reswm cyfreithiol i geisio cynnig cydsyniad o dan Reol Sefydlog 30A.10 mewn perthynas â'r Rheoliadau hyn.

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL	Rheoliadau Cynllun Effeithlonrwydd Ynni'r Ymrwymiad Lleihau Carbon (Diwygio) (Ymadael â'r UE) 2018
DYDDIAD	27 Tachwedd 2018
GAN	Julie James AC, Arweinydd y Tŷ a'r Prif Chwip

Rheoliadau Cynllun Effeithlonrwydd Ynni'r Ymrwymiad Lleihau Carbon (Diwygio) (Ymadael â'r UE) 2018

Mae'r Rheoliadau hyn yn cynnwys darpariaethau sy'n dod o fewn meysydd lle y mae cymhwysedd wedi ei ddatganoli; mae'r darpariaethau hyn yn diwygio'r deddfwriaeth a ganlyn.

Deddfwriaeth Ddomestig

- Gorchymyn Cynllun Effeithlonrwydd Ynni'r Ymrwymiad Lleihau Carbon 2013

Effaith yr OSau mewn perthynas â Chymru:

O ran effaith yr OSau yng Nghymru, mae'n gwneud mân ddiwygiadau technegol i gynllun masnachu allyriadau mewn cysylltiad â nwyon tŷ gwyr.

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

Mae'r OSau (pan fônt yn berthnasol i Gymru) o fewn cymhwysedd deddfwriaethol, fodd bynnag, o dan yr amgylchiadau eithriadol hyn pan fo gofyn inni ystyried a chywiro nifer digyffelyb o ddarnau deddfwriaeth o fewn amserlen dynn gan ddefnyddio adnoddau cyfyngedig, egwyddor gyffredinol Llywodraeth Cymru yw ein bod yn gofyn i Lywodraeth y DU deddfu ar ein rhan ar gyfer nifer mawr o offerynnau statudol.

Diben y diwygiadau

Bydd Deddf Ymadael â'r Undeb Ewropeaidd 2018 yn gosod deddfwriaeth sy'n deillio o'r UE yn ei lle i sicrhau ei bod yn gweithredu'n gywir ac yn effeithlon pan fydd y DU wedi ymadael â'r UE.

Mae'r diwygiadau hyn yn mynd i'r afael â methiannau sy'n deillio o ymadawiad y DU â'r UE. Mae'r offeryn yn diwygio darpariaethau a fydd, er enghraifft, yn dod yn amhriodol neu'n ddibwrpas.

Ar ôl ymadael, ni fyddai cyfraith berthnasol yr UE, os na chaiff ei diwygio, yn gweithredu'n gywir i'r fath raddau fel y gellid bwrw amheuaeth ar y pwerau i barhau i gyflawni swyddogaethau statudol.

Mae'r offeryn hwn yn diwygio'r ddeddfwriaeth berthnasol i sicrhau bod mesurau diogelu a fframweithiau rheoliadol yn cael eu cynnal a'u cadw, ac yn parhau i weithio yn yr un modd pan fydd y DU wedi ymadael â'r UE.

Mae'r Offeryn Statudol a'r Memorandwm Esboniadol sy'n mynd gydag ef, ac sy'n nodi effaith pob un o'r diwygiadau, ar gael yma: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-crc-energy-efficiency-scheme-amendment-eu-exit-regulations-2018>

Pam y rhoddwyd cydsyniad

Rhoddwyd cydsyniad i Lywodraeth y DU wneud y cywiriadau hyn o ran ac ar ran Cymru, am resymau'n ymwneud ag effeithlonrwydd, hwylustod ac oherwydd natur dechnegol y diwygiadau. Mae'r diwygiadau wedi cael eu hystyried yn llawn; ac nid oes unrhyw wahaniaeth o ran polisi. Diben y diwygiadau hyn yw sicrhau bod y llyfr statud yn parhau i weithio ar ôl i'r DU ymadael â'r UE. Mae hyn yn unol â'r egwyddorion ar gyfer cywiro y cytunwyd arnynt ym mis Mai gan Is-bwyllgor y Cabinet ar Bontio Ewropeaidd.

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

**Rheoliadau Cynllun Effeithlonrwydd Ynni'r Ymrwymiad Lleihau Carbon
(Diwygio) (Ymadael â'r UE) 2018**

Dyddiad gosod yn Senedd y DU: 22 Hydref 2018

Sifftio

A fydd angen eu sifftio yn Senedd y DU?	Bydd
Gweithdrefn:	Negyddol arfaethedig
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Tŷ'r Cyffredin	4 Rhagfyr 2018
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	
Y dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	10 Rhagfyr 2018
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur xx
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Dim angen

Gweithdrefn graffu

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

Sylwadau

Cynigir bod y Rheoliadau hyn yn cael eu gwneud gan Lywodraeth y DU o dan adran 8(1) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

Mae'r Rheoliadau hyn yn gwneud diwygiadau i ddeddfwriaeth yn ymwneud â deddfwriaeth Ymrwymiad Lleihau Carbon (CRC) ac, yn benodol, i sicrhau parhad, ar draws y Deyrnas Unedig, ar ôl y diwrnod gadael o esemptiadau sy'n berthnasol yn syth cyn y diwrnod gadael.

Mae Cynghorwyr Cyfreithiol yn cytuno â'r datganiad a osodwyd gan Lywodraeth Cymru dyddiedig 27 Tachwedd 2018 ynghylch effaith y Rheoliadau hyn.

Mae'r crynodeb uchod a chynnwys y Memorandwm Esboniadol i'r Rheoliadau hyn yn cadarnhau eu heffaith ac i ba raddau y byddai'r Rheoliadau hyn yn deddfu polisi newydd mewn meysydd datganoledig.

Nid yw Cynghorwyr Cyfreithiol wedi nodi unrhyw reswm cyfreithiol i geisio am gynnig cydsyniad o dan Reol Sefydlog 30A.10 mewn perthynas â'r Rheoliadau hyn.



Llywodraeth Cymru
Welsh Government

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL	Rheoliadau Pwerau Penderfyniad Cyfiawnhau (Ymadael â'r UE) 2018
DYDDIAD	28 Tachwedd 2018
GAN	Julie James AC, Arweinydd y Tŷ a'r Prif Chwip

Rheoliadau Pwerau Penderfyniad Cyfiawnhau (Ymadael â'r UE) 2018

Cyfraith [yr UE a ddargedwir] sy'n cael ei diwygio

Cyfiawnhau Arferion sy'n Ymwneud â Rheoliadau Ymbelydredd Ïoneiddio 2004

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

Mae'r OS (pan fônt yn berthnasol i Gymru) o fewn cymhwysedd deddfwriaethol, fodd bynnag, o dan yr amgylchiadau eithriadol hyn pan fo gofyn inni ystyried a chywiro nifer digyffelyb o ddarnau deddfwriaeth o fewn amserlen dynn gan ddefnyddio adnoddau cyfyngedig, egwyddor gyffredinol Llywodraeth Cymru yw ein bod yn gofyn i Lywodraeth y DU ddeddfu ar ein rhan ar gyfer nifer mawr o offerynnau statudol.

Diben y diwygiadau

Mae'r Rheoliadau Pwerau Penderfyniad Cyfiawnhau (Ymadael â'r UE) 2018 yn rhoi pŵer newydd i'r Ysgrifennydd Gwladol a'r Gweinyddiaethau Datganoledig wneud penderfyniadau cyfiawnhau ar ffurf rheoliadau ar gyfer dosbarthau a mathau o arferion sy'n ymwneud ag ymbelydredd Ïoneiddio at ddibenion y Cyfiawnhau Arferion sy'n Ymwneud â Rheoliadau Ymbelydredd Ïoneiddio 2004

Mae'r Offeryn Statudol a'r Memorandwm Esboniadol sy'n mynd gydag ef, ac sy'n nodi effaith pob un o'r diwygiadau, ar gael yma: <https://beta.parliament.uk/statutory-instruments/v4pTq3qi>

Pam y rhoddwyd cydsyniad

Rhoddwyd cydsyniad i Lywodraeth y DU wneud y cywiriadau hyn o ran ac ar ran Cymru, am resymau'n ymwneud ag effeithlonrwydd, hwylustod ac oherwydd natur dechnegol y diwygiadau. Mae'r diwygiadau wedi cael eu hystyried yn llawn; ac nid oes unrhyw wahaniaeth o ran polisi. Diben y diwygiadau hyn yw sicrhau bod y llyfr statud yn parhau i

Tudalen y pecyn 207

weithio ar ôl i'r DU ymadael â'r UE. Mae hyn yn unol â'r egwyddorion ar gyfer cywiro y cytunwyd arnynt ym mis Mai gan Is-bwyllgor y Cabinet ar Bontio Ewropeaidd.

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

Rheoliadau Pwerau Penderfyniad Cyfiawnhau (Ymadael â'r UE) 2018

Dyddiad gosod yn Senedd y DU: 23 Tachwedd 2018

Sifftio

A fydd angen sifftio yn Senedd y DU?	Na fydd
Gweithdrefn:	Cadarnhaol
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Ty'r Cyffredin	Amh
Dyddiad trafod gan Bwyllgor Craffu ar Is-deddfwriaeth Ty'r Arglwyddi	w/c 3 Rhagfyr 2018
Dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	Amh
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur xx
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Dim angen

Gweithdrefn graffu

Canlyniad y broses sifftio	Amh
Y weithdrefn	Cadarnhaol
Dyddiad trafod gan y Cyd-bwyllgor ar Offerynnau Statudol	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ty'r Cyffredin	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Craffu ar Is-deddfwriaeth Ty'r Arglwyddi	Ddim yn hysbys

Sylwadau

Bwriedir i'r Rheoliadau hyn gael eu gwneud gan Lywodraeth y DU o dan adran 8(1), a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

Mae'r rheoliadau hyn yn rhoi pŵer newydd i'r Ysgrifennydd Gwladol a'r Gweinyddiaethau Datganoledig wneud penderfyniadau cyfiawnhau ar ffurf rheoliadau ar gyfer dosbarthau a mathau o arferion sy'n ymwneud ag ymbelydredd ïoneiddio at ddibenion y Cyfiawnhau Arferion sy'n Ymwneud â Rheoliadau Ymbelydredd Ïoneiddio 2004. Ni fydd y pwerau i wneud rheoliadau at y diben hwn bellach ar gael unwaith y bydd Deddf Cymunedau Ewropeaidd 1972 yn cael ei diddymu. Nid yw'r Rheoliadau'n deddfu unrhyw bolisi newydd.

Mae'r Cynghorwyr Cyfreithiol yn cytuno â'r datganiad a osodwyd gan Lywodraeth Cymru dyddiedig 28 Tachwedd 2018 ynghylch effaith y Rheoliadau hyn.

Mae'r crynodeb uchod a chynnwys y Memorandwm Esboniadol i'r Rheoliadau hyn yn cadarnhau eu heffaith.

Nid yw'r Cynghorwyr Cyfreithiol yn ystyried bod unrhyw faterion arwyddocaol yn codi o dan baragraff 8 y Memorandwm ar Fil yr Undeb Ewropeaidd (Ymadael) a Sefydlu Fframweithiau Cyffredin mewn perthynas â'r Rheoliadau hyn.

Nid yw'r Cynghorwyr Cyfreithiol wedi nodi unrhyw reswm cyfreithiol i geisio cynnig cydsyniad o dan Reol Sefydlog 30A.10 mewn perthynas â'r Rheoliadau hyn.



Llywodraeth Cymru
Welsh Government

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL Rheoliadau Meddyginiaethau Milfeddygol ac Anifeiliaid a Chynhyrchion Anifeiliaid (Archwilio am Weddillion a Therfynau Uchaf Gweddillion) (Diwygio etc.) (Ymadael â'r UE) 2018

DYDDIAD 28 Tachwedd 2018

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

Rheoliadau Meddyginiaethau Milfeddygol ac Anifeiliaid a Chynhyrchion Anifeiliaid (Archwilio am Weddillion a Therfynau Uchaf Gweddillion) (Diwygio etc.) (Ymadael â'r UE) 2018

Y gyfraith sy'n cael ei diwygio

Rhestr o Reoliadau'r UE sy'n cael eu diwygio

- Rheoliad y Comisiwn (EC) Rhif 2017/880
- Rheoliad Gweithredu'r Comisiwn (EU) Rhif 2017/12
- Rheoliad y Comisiwn (EC) Rhif 2018/782
- Rheoliad (EC) Rhif 470/2009
- Rheoliad (EC) Rhif 37/2010

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

Mae gan Gynulliad Cenedlaethol Cymru gymhwysedd deddfwriaethol mewn perthynas â Diogelwch Bwyd. Mae swyddogaethau mewn perthynas â Rheoliad (EC) Rhif 470/2009, Rheoliad Gweithredu'r Comisiwn (EU) Rhif 2017/12 a Rheoliad y Comisiwn (EC) Rhif 2018/782 wedi eu rhoi i'r Ysgrifennydd Gwladol yn unig. Mae swyddogaethau a drosglwyddir i'r Ysgrifennydd Gwladol yn gyfystyr â swyddogaethau un o Weiniogion y Goron at ddibenion Atodlen 7B i Ddeddf Llywodraeth Cymru 2006. Pe bai'r Cynulliad yn cyflwyno Bil yn y dyfodol i geisio dileu neu addasu'r swyddogaethau hyn, gallai hynny olygu y bydd gofyn ymgynghori â Llywodraeth y DU.

Diben y diwygiadau

Mae Rheoliadau 2018 (y weithdrefn negyddol) yn sicrhau y bydd y fframwaith meddyginiaethau milfeddygol yn parhau i weithio'n effeithiol unwaith y byddwn yn ymadael â'r UE, ac y gallwn barhau i weithredu rhaglen cadw gwyliadwriaeth am weddillion a fydd yn cyflawni'r un amcanion. Mae angen y newidiadau sy'n cael eu gwneud gan yr offeryn er mwyn sicrhau bod deddfwriaeth yr UE a ddargedwir a'r deddfwriaeth ddomestig sy'n ei gorfodi yn parhau i weithio'n effeithiol.

Mae'r Offeryn Statudol a'r Memorandwm Esboniadol sy'n mynd gydag ef, ac sy'n nodi effaith pob un o'r diwygiadau, ar gael yma: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-veterinary-medicines-and-animals-and-animal-products-examination-of-residues-and-maximum-residues-limits-amendment-etc-eu-exit-regulations-2018>

Pam y rhoddwyd cydsyniad

Rhoddwyd cydsyniad i Lywodraeth y DU wneud y cywiriadau hyn o ran, ac ar ran, Cymru am resymau'n ymwneud ag effeithlonrwydd, hwylustod ac oherwydd natur dechnegol y diwygiadau. Mae'r diwygiadau wedi cael eu hystyried yn llawn; ac nid oes unrhyw wahaniaeth o ran polisi. Diben y diwygiadau hyn yw sicrhau bod y llyfr statud yn parhau i weithio ar ôl i'r DU ymadael â'r UE. Mae hyn yn unol â'r egwyddorion ar gyfer cywiro y cytunwyd arnynt ym mis Mai gan Is-bwyllgor y Cabinet ar Bontio Ewropeaidd.

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

**Rheoliadau Meddyginiaethau Milfeddygol ac Anifeiliaid a Chynhyrchion
Anifeiliaid (Archwilio Gweddillion a Therfynau Uchaf Gweddillion)
(Diwygio etc.) (Ymadael â'r UE) 2018**

Dyddiad gosod yn Senedd y DU: 26 Tachwedd 2018

Sifftio

A fydd angen eu sifftio yn Senedd y DU?	Bydd
Gweithdrefn:	Negyddol arfaethedig
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Tŷ'r Cyffredin	11 Rhagfyr 2018
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	Anhysbys
Y dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	12 Rhagfyr 2018
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur xx
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Nid yw'n ofynnol

Gweithdrefn graffu

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

Sylwadau

Bwriedir i'r Rheoliadau hyn gael eu gwneud gan Lywodraeth y DU yn unol ag adran 8 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, a pharagraff 21 o Atodlen 7 i'r Ddeddf.

Mae'r Rheoliadau hyn yn helpu i sicrhau bod y fframwaith meddyginiaethau milfeddygol yn parhau i weithredu'n effeithiol ar ôl i ni adael yr UE, ac y gall y DU barhau i weithredu rhaglen goruchwyllo gweddillion sy'n cwmpasu'r un amcanion. Gwneir i'r newidiadau a wneir gan y Rheoliadau sicrhau bod deddfwriaeth yr UE a gedwir a'r deddfwriaeth ddomestig sy'n ei gorfodi'n parhau i weithredu'n effeithiol.

Mae'r Cynghorwyr Cyfreithiol yn cytuno â'r datganiad a osodwyd gan Lywodraeth Cymru dyddiedig 28 Tachwedd 2018 ynghylch effaith y Rheoliadau hyn.

Mae'r crynodeb uchod a chynnwys y Memorandwm Esboniadol i'r Rheoliadau hyn yn cadarnhau eu heffaith.

Nid yw'r Cynghorwyr Cyfreithiol yn ystyried bod unrhyw faterion arwyddocaol yn codi o dan baragraff 8 o'r Memorandwm ar Fil yr Undeb Ewropeaidd (Ymadael) a Sefydlu Fframweithiau Cyffredin mewn perthynas â'r Rheoliadau hyn.

Nid yw'r Cynghorwyr Cyfreithiol wedi nodi unrhyw reswm cyfreithiol i geisio cynnig cydsyniad o dan Reol Sefydlog 30A.10 mewn perthynas â'r Rheoliadau hyn.



Llywodraeth Cymru
Welsh Government

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL	Rheoliadau'r Fasnach mewn Anifeiliaid a Chynhyrchion Perthynol (Diwygio etc.) (Ymadael â'r UE) 2018
DYDDIAD	29 Tachwedd 2018
GAN	Julie James AC, Arweinydd y Tŷ a'r Prif Chwip

Rheoliadau'r Fasnach mewn Anifeiliaid a Chynhyrchion Perthynol (Diwygio etc.) (Ymadael â'r UE) 2018

Y gyfraith sy'n cael ei diwygio

Deddfwriaeth Ddomestig

- Gorchymyn y Gynddaredd (Mewnforio Cŵn, Cathod a Mamaliaid Eraill) 1974 (DU)
- Rheoliadau (CEE) Ffrwythloni Moch yn Artiffisial 1992 (DU)
- Gorchymyn Anifeiliaid (Rheoli ar ôl Mewnforio) 1995 (Cymru, Lloegr a'r Alban)
- Rheoliadau Embryonau Buchol (Casglu, Cynhyrchu a Throsglwyddo) 1995
- Gorchymyn Symud Anifeiliaid Anwes yn Anfasnachol 2011 (Cymru a Lloegr)

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

Gwneir y diwygiadau hyn gan yr Ysgrifennydd Gwladol mewn cysylltiad â deddfwriaeth y DU neu Brydain Fawr y mae gan Weinidogion Cymru swyddogaethau gweithredol mewn perthynas â hwy ac mae testun y deddfwriaeth, sef symud anifeiliaid a mesurau iechyd ataliol sy'n ymwneud â symud anifeiliaid mewn cysylltiad â Chymru o fewn cymhwysedd deddfwriaethol y Cynulliad Cenedlaethol.

Diben y diwygiadau

Mae Rheoliadau'r Fasnach mewn Anifeiliaid a Chynhyrchion Perthynol (Diwygio etc.) (Ymadael â'r UE) 2018 yn gwneud cywiriadau sy'n caniatáu gweithredu deddfwriaeth genedlaethol a domestig ar ôl i'r DU adael yr UE trwy gyfnewid cyfeiriadau lle bo angen, er enghraifft trwy hepgor y diffiniad o "intra-Area trade" a diffinio "masnach genedlaethol" fel "masnach o fewn Prydain Fawr" a thrwy gyfeirio'n briodol at gyfraith yr UE a gedwir, gan ddefnyddio pwerau o dan y Ddeddf Ymadael. Nid yw'r offeryn yn newid polisi.

Mae'r Offeryn Statudol a'r Memorandwm Esboniadol sy'n mynd gydag ef, ac sy'n nodi effaith pob un o'r diwygiadau, ar gael yma: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-trade-in-animals-and-related-products-amendment-eu-exit-regulations-2018>

Pam y rhoddwyd cydsyniad

Rhoddwyd cydsyniad i Lywodraeth y DU wneud y cywiriadau hyn o ran, ac ar ran, Cymru am resymau'n ymwneud ag effeithlonrwydd, hwylustod ac oherwydd natur dechnegol y diwygiadau. Mae'r diwygiadau wedi cael eu hystyried yn llawn; ac nid oes unrhyw wahaniaeth o ran polisi. Diben y diwygiadau hyn yw sicrhau bod y llyfr statud yn parhau i weithio ar ôl i'r DU ymadael â'r UE. Mae hyn yn unol â'r egwyddorion ar gyfer cywiro y cytunwyd arnynt ym mis Mai gan Is-bwyllgor y Cabinet ar Bontio Ewropeaidd.

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

**Rheoliadau'r Fasnach mewn Anifeiliaid a Chynhyrchion Perthynol
(Diwygio etc.) (Ymadael â'r UE) 2018**

Dyddiad gosod yn Senedd y DU: 27 Hydref 2018

Sifftio

A fydd angen eu sifftio yn Senedd y DU?	Bydd
Gweithdrefn:	Negyddol arfaethedig
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Tŷ'r Cyffredin	11 Rhagfyr 2018
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	Anhysbys
Y dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	13 Rhagfyr 2018
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur xx
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Dim angen

Gweithdrefn graffu

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

Sylwadau

Cynigir bod y Rheoliadau hyn yn cael eu gwneud gan Lywodraeth y DU yn unol ag adran 8(1) o, a pharagraff 21 o Atodlen 7 i, Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

Mae'r Rheoliadau hyn yn gwneud diwygiadau technegol a chywiro i saith offeryn statudol domestig sy'n deillio o'r UE (dau yn gymwys i Loegr yn unig) yn ymwneud â mewnfario anifeiliaid byw, cynhyrchion sy'n dod o anifeiliaid, plasm cenhedlu (semen, ofa ac embryonau) a symud anifeiliaid anwes a cheffylau yn anfasnachol.

Mae'r memorandwm esboniadol sy'n cyd-fynd â'r Rheoliadau yn cadarnhau bod y diwygiadau yn ymdrin â diffygion yng nghyfraith yr UE a gedwir yn deillio o'r DU yn gadael yr Undeb Ewropeaidd, ac y'u gwneir er

mwyn osgoi unrhyw rwystrau deddfwriaethol i fasnach yn y materion amaethyddol hyn gyda'r UE ar ôl i'r DU adael. Nid yw'r Rheoliadau yn deddfu unrhyw bolisi newydd.

Mae Cyngorwyr Cyfreithiol yn cytuno â'r datganiad a osodwyd gan Lywodraeth Cymru dyddiedig 29 Tachwedd 2018 ynghylch effaith y Rheoliadau hyn.

Mae'r crynodeb uchod a chynnwys y Memorandwm Esboniadol i'r Rheoliadau hyn yn cadarnhau eu heffaith.

Nid yw Cyngorwyr Cyfreithiol o'r farn bod unrhyw faterion sylweddol yn codi o dan baragraff 8 o'r Memorandwm ar Fil yr Undeb Ewropeaidd (Ymadael) a Sefydlu Fframweithiau Cyffredin mewn perthynas â'r Rheoliadau hyn.

Nid yw Cyngorwyr Cyfreithiol wedi nodi unrhyw reswm cyfreithiol i geisio am gynnig cydsyniad o dan Reol Sefydlog 30A.10 mewn perthynas â'r Rheoliadau hyn.

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL	Rheoliadau Protocol 1 i Gytundeb yr AEE (Diwygio) (Ymadael â'r UE) 2018
DYDDIAD	30 Tachwedd 2018
GAN	Julie James AC, Arweinydd y Tŷ a'r Prif Chwip

Rheoliadau Protocol 1 i Gytundeb yr AEE (Diwygio) (Ymadael â'r UE) 2018

Cyfraith yr UE a ddargedwir sy'n cael ei diwygio
Protocol 1 i Gytundeb yr AEE

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

Nid yw'r OS hwn yn cael unrhyw effaith ar gymhwysedd deddfwriaethol y Cynulliad na chymhwysedd gweithredol Gweinidogion Cymru

Diben y diwygiadau

Diben y diwygiadau yw cywiro diffygion mewn deddfwriaeth sy'n codi wrth i'r DU ymadael â'r Undeb Ewropeaidd mewn perthynas â Phrotocol 1 i Gytundeb yr AEE, trefn a ddefnyddir i roi cyfraith yr UE ar waith ar gyfer, ac o fewn, gwladwriaethau Cymdeithas Masnach Rydd Ewrop yr AEE.

Mae'r OS a'r Memorandwm Esboniadol sy'n mynd gydag ef, ac sy'n nodi effaith pob un o'r diwygiadau, ar gael yma: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-protocol-1-to-the-eea-agreement-amendment-eu-exit-regulations-2018>

Pam y rhoddwyd cydsyniad

Rhoddwyd cydsyniad i Lywodraeth y DU wneud y cywiriadau hyn o ran ac ar ran Cymru, am resymau'n ymwneud ag effeithlonrwydd, hwylustod ac oherwydd natur dechnegol y diwygiadau. Nid oes gwahaniaeth rhwng Llywodraeth Cymru a Llywodraeth y DU o ran y polisi ar gyfer y cywiriad. Felly, byddai gwneud OSau ar wahân yng Nghymru ac yn Lloegr yn arwain at ddyblygu gwaith ac at gymhlethdod diangen i'r llyfr statud. Mae cydsynio i OS ar draws y DU yn sicrhau bod un fframwaith deddfwriaethol ar draws y DU sy'n hybu eglurder a hygyrchedd yn ystod y cyfnod hwn o newid. O dan yr amgylchiadau eithriadol hyn, mae Llywodraeth Cymru yn ystyried ei bod yn briodol i Lywodraeth y DU ddeddfu ar ein rhan yn yr achos hwn.

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

**Rheoliadau Protocol 1 i Gytundeb yr AEE (Diwygio) (Ymadael â'r UE)
2018**

Dyddiad gosod yn Senedd y DU: 29 Tachwedd 2018

Sifftio

A fydd angen eu sifftio yn Senedd y DU?	Bydd
Gweithdrefn:	Negyddol arfaethedig
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Ty'r Cyffredin	11 Rhagfyr 2018
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	Ddim yn hysbys
Dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	18 Rhagfyr 2018
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur xx
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Dim angen

Gweithdrefn graffu

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

Sylwadau

Bwriedir i'r Rheoliadau hyn gael eu gwneud gan Lywodraeth y DU yn unol ag adran 8(1) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

Mae'r offeryn hwn yn gwneud diwygiadau cyfreithiol technegol cyfyngedig i Brotocol 1 i'r Cytundeb AEE, mecanwaith y mae cyfraith yr UE yn cael ei chymhwyso iddo ar hyn o bryd ac yn EFTA yr AEE. Ar ddiwrnod gadael, bydd Protocol 1 yn mudo i'r llyfr statud domestig ac yn dod yn rhan o'r corff newydd o gyfraith ddomestig a elwir yn 'ddeddfwriaeth uniongyrchol yr UE a gedwir' ("RDEUL").

Er mwyn sicrhau bod Protocol 1 yn gweithredu'n iawn ar ôl gadael, mae'r offeryn hwn yn gwneud nifer o ddiwygiadau iddo i egluro bod Protocol 1 yn berthnasol i gyfraith yr UE yn unig, a ymgorfforir yn yr Atodiadau AEE,

sy'n ffurfio rhan o RDEUL; bod unrhyw rwymedigaeth sy'n ddyledus i unrhyw Wladwriaethau'r UE, eu hendidau cyhoeddus, eu hymrwymiaid neu unigolion, neu unrhyw hawl a roddir iddynt, hefyd yn ddyledus i EFTA yr AEE neu ei roi arnynt, eu hasiantaethau cymwys, endidau cyhoeddus, ymgymeriadau neu unigolion; a bod rhai darpariaethau segur yn cael eu dileu.

Mae'r diwygiadau i Brotocol 1 yn egluro bod Protocol 1, gan ei fod yn rhan o gyfraith ddomestig, yn berthnasol i gyfraith yr UE yn unig, wedi'i ymgorffori yn yr Atodiadau AEE, sy'n ffurfio rhan o RDEUL. Mae hyn yn golygu na fydd Protocol 1 yn gosod rhwymedigaethau mwyach ar wladwriaethau neu o fewn gwladwriaethau EFTA, y Comisiwn, Awdurdod Goruchwylio'r AEE neu'r Cydbwyllgor gan nad yw RDEUL yn gallu gorfodi rhwymedigaethau ar unrhyw drydydd parti y tu allan i'r DU.

Mae Cyngorwyr Cyfreithiol yn gwneud y sylwadau canlynol mewn perthynas â datganiad Llywodraeth Cymru dyddiedig 30 Tachwedd 2018 ynghylch effaith y Rheoliadau hyn:

Mae paragraff 10.2 y Memorandwm Esboniadol yn nodi, yn unol â'r Cytundeb Rhynglywodraethol ar Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 ("EUWA"), yr ymgynghorwyd â Llywodraeth Cymru ynghylch y Rheoliadau hyn. Rhoddodd Llywodraeth Cymru ganiatâd i lywodraeth y DU, mewn llythyr gan Mark Drakeford AC dyddiedig 27 Tachwedd 2018. Er gwaethaf y gofyniad i ymgynghori, nid yw datganiad Llywodraeth Cymru yn nodi pa bwerau deddfwriaethol y Cynulliad neu bwerau gweithredol Gweinidogion Cymru y mae'r offeryn hwn yn effeithio arnynt. Mewn gwirionedd, ymddengys bod yr offeryn yn ymwneud â meysydd nad ydynt wedi eu datganoli. Mae cyngorwyr cyfreithiol yn argymhell y dylid ceisio eglurhad ynghylch pa bwerau datganoledig yr effeithir arnynt.

Er bod datganiad Llywodraeth Cymru yn nodi nad oes unrhyw wahaniaeth rhwng Llywodraeth Cymru a Llywodraeth y DU ar y polisi ar gyfer cywiro, nid yw'r datganiad yn dangos i ba raddau y mae'r offeryn hwn yn effeithio ar feysydd datganoledig, ac i ba raddau roedd angen caniatâd gan Lywodraeth Cymru. Yr unig beth ddywed y datganiad yw bod caniatâd wedi'i roi am resymau effeithlonrwydd, hwylustod ac oherwydd natur dechnegol y gwelliannau.

Mae'r crynodeb uchod a chynnwys y Memorandwm Esboniadol i'r Rheoliadau hyn yn cadarnhau eu heffaith.

Nid yw'r Cyngorwyr Cyfreithiol yn ystyried bod unrhyw faterion arwyddocaol yn codi o dan baragraff 8 y Memorandwm ar Fil yr Undeb Ewropeaidd (Ymadael) a Sefydlu Fframweithiau Cyffredin mewn perthynas â'r Rheoliadau hyn.

Nid yw'r Cyngorwyr Cyfreithiol wedi nodi unrhyw reswm cyfreithiol i geisio cynnig cydsyniad o dan Reol Sefydlog 30A.10 mewn perthynas â'r Rheoliadau hyn.



Llywodraeth Cymru
Welsh Government

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL	Rheoliadau'r Polisi Pysgodfeydd Cyffredin (Diwygio etc) (Ymadael â'r UE) 2018
DYDDIAD	30 Tachwedd 2018
GAN	Julie James AC, Arweinydd y Tŷ a'r Prif Chwip

Rheoliadau'r Polisi Pysgodfeydd Cyffredin (Diwygio etc) (Ymadael â'r UE) 2018

Mae Rheoliadau 2018 yn diwygio ac yn dirymu deddfwriaeth yr UE sy'n uniongyrchol gymwysadwy ym maes y Polisi Pysgodfeydd Cyffredin.

Offerynnau Ewropeaidd sy'n Uniongyrchol Gymwysadwy a ddiwygir gan Reoliadau 2018.

1. Rheoliad (EU) Rhif 1380/2013 Senedd Ewrop a'r Cyngor ar y Polisi Pysgodfeydd Cyffredin.
2. Rheoliad y Cyngor (EC) Rhif 1224/2009 sy'n sefydlu system reoli ar gyfer yr Undeb er mwyn sicrhau y cydymffurfir â rheolau'r Polisi Pysgodfeydd Cyffredin.
3. Rheoliad Gweithredu gan y Comisiwn (EU) Rhif 404/2011 sy'n pennu rheolau manwl ar gyfer gweithredu Rheoliad y Cyngor (EC) Rhif 1224/2009 sy'n sefydlu system reoli ar gyfer y Gymuned er mwyn sicrhau y cydymffurfir â rheolau'r Polisi Pysgodfeydd Cyffredin.
4. Rheoliad y Cyngor (EC) Rhif 1936/2001 sy'n pennu mesurau rheoli sy'n gymwys i bysgota am stociau penodol o bysgod mudol iawn.
5. Rheoliad y Comisiwn (EU) Rhif 724/2010 sy'n pennu rheolau manwl ar gau pysgodfeydd penodol ym Môr y Gogledd a Skagerrak ar sail gwybodaeth amser real.
6. Rheoliad Gweithredu'r Comisiwn (EU) Rhif 2017/218 ar gofrestr fflyd bysgota'r Undeb.
7. Rheoliad (UE) Rhif 2017/2403 Senedd Ewrop a'r Cyngor ar reoli fflydoedd bysgota allanol mewn ffordd gynaliadwy.
8. Rheoliad y Cyngor (EC) Rhif 1005/2008 sy'n sefydlu system ar gyfer y Gymuned er mwyn rhwystro, atal a rhoi diwedd ar bysgota anghyfreithlon, bysgota heb roi gwybod amdano a physgota heb ei reoleiddio.
9. Rheoliad y Comisiwn (EU) Rhif 468/2010 sy'n sefydlu rhestr yr UE o gychod sy'n bysgota'n anghyfreithlon, heb roi gwybod amdano a heb ei reoleiddio.
10. Penderfyniad Gweithredu gan y Comisiwn 2014/170/EU sy'n sefydlu rhestr o drydydd gwledydd nad ydynt yn cydweithredu i wrthsefyll bysgota anghyfreithlon, bysgota na roddwyd gwybod amdano a physgota heb ei reoleiddio, yn unol â Rheoliad (EC) Rhif 1005/2008 sy'n sefydlu system ar gyfer y Gymuned er mwyn rhwystro, atal a rhoi

diwedd ar bysgota anghyfreithlon, pysgota heb roi gwybod amdano a physgota heb ei reoleiddio.

11. Rheoliad y Comisiwn (EC) Rhif 1010/2009 sy'n pennu rheolau manwl ar gyfer gweithredu Rheoliad y Cyngor (EC) Rhif 1005/2008 sy'n sefydlu system ar gyfer y Gymuned er mwyn rhwystro, atal a rhoi diwedd ar bysgota anghyfreithlon, pysgota heb roi gwybod amdano a physgota heb ei reoleiddio.
12. Rheoliad (EU) Rhif 2016/2012 Senedd Ewrop a'r Cyngor ar fesurau penodol er mwyn diogelu stociau pysgod mewn perthynas â gwledydd sy'n caniatáu pysgota nad yw'n gynaliadwy.
13. Rheoliad y Comisiwn (EC) Rhif 1100/2007 sy'n sefydlu mesurau ar gyfer adfer y stoc o Lyswennodd Ewropeaidd.
14. Rheoliad y Comisiwn (EC) Rhif 1954/2003 ar reoli'r ymdrech bysgota sy'n gysylltiedig ag ardaloedd ac adnoddau pysgota penodol y Gymuned
15. Rheoliad (EU) 2017/1004 Senedd Ewrop a'r Cyngor ar sefydlu fframwaith i'r Undeb ar gyfer casglu, rheoli a defnyddio data yn y sector pysgodfeydd ac ar gyfer cefnogi cyngor gwyddonol am y Polisi Pysgodfeydd Cyffredin.
16. Penderfyniad Gweithredu gan y Comisiwn (EU) 2016/1251 sy'n mabwysiadu rhaglen amlflwydd i'r Undeb ar gyfer casglu, rheoli a defnyddio data yn y sector pysgodfeydd a dyframaeth ar gyfer y cyfnod 2017-2019.
17. Rheoliad (EC) Rhif 218/2009 Senedd Ewrop a'r Cyngor ar gyflwyno ystadegau pwysau byw dalfeydd gan Aelod-wladwriaethau sy'n pysgota yn ardal dde-ddwyreiniol Môr Iwerydd.
18. Rheoliad (UE) Rhif 1379/2013 Senedd Ewrop a'r Cyngor ar drefniadaeth gyffredin ar gyfer marchnadoedd mewn cynhyrchion pysgodfeydd a dyframaeth.
19. Rheoliad y Cyngor (EEC) Rhif 2136/89 sy'n pennu safonau marchnata cyffredin ar gyfer sardîns cadw a disgrifiadau masnach ar gyfer sardîns cadw a chynhyrchion tebyg i sardîns
20. Rheoliad y Cyngor (EEC) 1536/92 sy'n pennu safonau marchnata cyffredin ar gyfer tiwna a bonito cadw.
21. Rheoliad Gweithredu gan y Comisiwn (UE) Rhif 1418/2013 sy'n ymwneud â chynlluniau cynhyrchu a marchnata yn unol â Rheoliad (EU) Rhif 1379/2013 Senedd Ewrop a'r Cyngor ar drefniadaeth gyffredin ar gyfer marchnadoedd mewn cynhyrchion pysgodfeydd a dyframaeth.
22. Rheoliad Gweithredu gan y Comisiwn (EU) Rhif 1419/2013 sy'n ymwneud â chydabod sefydliadau cynhyrchwyr a sefydliadau cydadrannol, estyn rheolau sefydliadau cynhyrchwyr a sefydliadau cydadrannol a chyhoeddi prisiau sbarduno fel y darperir ar eu cyfer gan Rheoliad (UE) Rhif 1379/2013 Senedd Ewrop a'r Cyngor ar drefniadaeth gyffredin ar gyfer y marchnadoedd mewn cynhyrchion pysgodfeydd a dyframaeth.
23. Rheoliad y Cyngor (EC) Rhif 734/2008 ar warchod systemau morol agored i niwed yn y cefnforoedd rhag effeithiau andwyol offer pysgota a ddefnyddir ar wely'r môr.
24. Rheoliad (EU) 2016/2336 Senedd Ewrop a'r Cyngor sy'n pennu amodau penodol ar gyfer pysgota am stociau'r dyfnfor yn ardal dde-ddwyreiniol Môr Iwerydd a darpariaethau ar gyfer pysgota yn nyfroedd rhyngwladol ardal dde-ddwyreiniol Môr Iwerydd
25. Rheoliad (EC) Rhif 2017/1130 Senedd Ewrop a'r Cyngor sy'n diffinio nodweddion cychod pysgota.

26. Penderfyniad y Comisiwn 95/84/EC ynglŷn â gweithredu'r Atodiad i Reoliad y Cyngor Rhif 2930/86 sy'n diffinio nodweddion cychod pysgota.
27. Rheoliad y Comisiwn (EEC) Rhif 954/87 ar samplu dalfeydd er mwyn penderfynu ar ganran y rhywogaethau targed a'r rhywogaethau a warchodir wrth bysgota â rhwydi mân-rwylllog.
28. Rheoliad (EU) Rhif 508/2014 Senedd Ewrop a'r Cyngor ar Gronfa'r Môr a Physgodfeydd Ewrop.
29. Rheoliad Dirprwyedig y Comisiwn (EU) 2015/288 sy'n ategu Rheoliad (UE) Rhif 508/2014 Senedd Ewrop a'r Cyngor ar Gronfa'r Môr a Physgodfeydd Ewrop o ran y cyfnodau amser a'r dyddiadau ar gyfer peidio â derbyn ceisiadau.
30. Rheoliad Dirprwyedig y Comisiwn (EU) 2015/531 sy'n ategu Rheoliad (UE) Rhif 508/2014 Senedd Ewrop a'r Cyngor drwy nodi'r costau sy'n gymwys i gael cymorth o Gronfa'r Môr a Physgodfeydd Ewrop er mwyn gwella hylendid, iechyd, diogelwch ac amodau gweithio pysgotwyr, gwarchod ac adfer bioamrywiaeth ac ecosystemau morol, lliniaru mewn perthynas â'r newid yn yr hinsawdd a gwneud cychod pysgota yn fwy effeithlon o ran ynni.
31. Penderfyniad Gweithredu gan y Comisiwn C(2015) 8628 ar gymeradwyo'r rhaglen weithredol "European Maritime and Fisheries Fund – Operational Programme for the United Kingdom" ar gyfer cymorth o Gronfa'r Môr a Physgodfeydd Ewrop yn y DU.

Dirymiadau a nodir yn Rheoliadau 2018

1. Rheoliad y Comisiwn (EEC) 2166/83 sy'n sefydlu system drwyddedu ar gyfer pysgodfeydd penodol mewn ardal i'r gogledd o'r Alban (ardal Shetland).
2. Rheoliad y Cyngor (EC) Rhif 847/96 sy'n cyflwyno amodau ychwanegol ar gyfer rheoli cyfanswm y dalfeydd a ganiateir a chwotâu o'r naill flwyddyn i'r llall.
3. Rheoliad y Cyngor (EC) Rhif 882/2003 sy'n sefydlu system tracio a gwirio tiwna.
4. Rheoliad y Cyngor (EC) Rhif 1415/2004 sy'n pennu'r ymdrech bysgota flynyddol uchaf ar gyfer ardaloedd pysgota a physgodfeydd penodol.
5. Rheoliad y Comisiwn (EC) Rhif 2103/2004 sy'n ymwneud â throsglwyddo data ar bysgodfeydd penodol mewn dyfroedd gorllewinol a'r Môr Baltig.
6. Rheoliad y Cyngor (EC) Rhif 768/2005 sy'n sefydlu Asiantaeth Rheoli Pysgodfeydd ar gyfer y Gymuned.
7. Rheoliad y Cyngor (EC) Rhif 764/2006 ar ddiwedd y Cytundeb Partneriaeth Pysgodfeydd rhwng y Gymuned Ewropeaidd a Theyrnas Moroco.
8. Rheoliad y Cyngor (EC) Rhif 509/2007 sy'n sefydlu cynllun amlflwydd ar gyfer defnyddio'r stoc lledod yn y Sianel Orllewinol mewn ffordd gynaliadwy.
9. Rheoliad y Comisiwn (EC) Rhif 665/2008 sy'n pennu rheolau manwl ar gyfer cymhwys Rheoliad y Cyngor (EC) Rhif 199/2008 sy'n ymwneud â sefydlu fframwaith i'r Gymuned ar gyfer casglu, rheoli a defnyddio data yn y sector pysgodfeydd a chefnogaeth ar gyfer cyngor gwyddonol am y Polisi Pysgodfeydd Cyffredin.
10. Rheoliad y Comisiwn (CE) Rhif 1078/2008 sy'n pennu rheolau manwl ar gyfer gweithredu Rheoliad y Cyngor (EC) Rhif 861/2006.
11. Rheoliad y Comisiwn (EC) Rhif 201/2010 sy'n pennu rheolau manwl ar gyfer gweithredu Rheoliad y Cyngor (EC) Rhif 1006/208 sy'n ymwneud ag awdurdodi gweithgareddau pysgota cychod pysgota'r Gymuned y tu allan i ddyfroedd y Gymuned ac â mynediad cychod trydydd gwledydd i ddyfroedd y Gymuned.

12. Rheoliad y Comisiwn (UE) Rhif 779/2011 sy'n ymwneud â dyrannu'r cyfleoedd pysgota o dan y Protocol rhwng yr Undeb Ewropeaidd a Theyrnas Morocco.
13. Rheoliad (UE) Rhif 1343/2011 Senedd Ewrop a'r Cyngor ar ddarpariaethau penodol ar gyfer pysgota yn y Comisiwn Pysgodfeydd Cyffredinol ar gyfer ardal Cytundeb Môr y Canoldir.
14. Rheoliad y Comisiwn (UE) Rhif 1270/2013 ar ddyrannu cyfleoedd pysgota o dan y Protocol rhwng yr Undeb Ewropeaidd a Theyrnas Morocco.
15. Penderfyniad Gweithredu gan y Comisiwn 2014/372/EU sy'n pennu'r dadansoddiad blynyddol fesul Aelod-wladwriaeth o gyfanswm adnoddau Cronfa'r Môr a Physgodfeydd Ewrop sydd ar gael yn y fframwaith cyd-reoli ar gyfer y cyfnod 2014-2020.
16. Penderfyniad Gweithredu gan y Comisiwn 2014/372/EU sy'n nodi blaenoriaethau'r Undeb ar gyfer polisi gorfodi a rheoli yn fframwaith Cronfa'r Môr a Physgodfeydd Ewrop.
17. Rheoliad Gweithredu gan y Comisiwn (EU) 763/2014 sy'n pennu rheolau ar gyfer cymhwyso Rheoliad (EU) Rhif 508/2014 Senedd Ewrop a'r Cyngor ar Gronfa'r Môr a Physgodfeydd Ewrop o ran nodweddion technegol gwybodaeth a mesurau cyhoedduswydd a chyfarwyddiadau ar gyfer creu arwyddlun yr Undeb.
18. Rheoliad Gweithredu gan y Comisiwn (UE) Rhif 771/2014 sy'n pennu rheolau yn unol â Rheoliad (EU) Rhif 508/2014 Senedd Ewrop a'r Cyngor ar Gronfa'r Môr a Physgodfeydd Ewrop sy'n ymwneud â'r model ar gyfer rhaglenni gweithredol, strwythur y cynlluniau ar gyfer digolledu gweithredwyr am gostau ychwanegol a ysgwyddir ganddynt wrth bysgota, ffermio, prosesu a marchnata cynhyrchion pysgodfeydd a dyframaeth penodol o'r ardaloedd pellaf, y model ar gyfer trosglwyddo data, cyd-destun yr adroddiadau gwerthuso ex ante a'r gofynion sylfaenol ar gyfer y cynllun gwerthuso sydd i'w gyflwyno o dan Gronfa'r Môr a Physgodfeydd Ewrop.
19. Rheoliad Gweithredu gan y Comisiwn (EU) Rhif 902/2014 sy'n diwygio Rheoliad y Cyngor (EC) 1415/2004 sy'n ymwneud ag addasu ar gyfer y Deyrnas Unedig yr ymdrech bysgota flynyddol uchaf ar gyfer ardaloedd pysgota penodol.
20. Rheoliad Dirprwyedig y Comisiwn (EU) Rhif 1014/2014 sy'n ategu Rheoliad (EU) Rhif 508/2014 Senedd Ewrop a'r Cyngor ar Gronfa'r Môr a Physgodfeydd Ewrop sy'n ymwneud â chynnwys a chreu system fonitro a gwerthuso gyffredin ar gyfer y gweithrediadau a ariennir o dan Gronfa'r Môr a Physgodfeydd Ewrop.
21. Rheoliad Dirprwyedig y Comisiwn (EU) Rhif 1046/2014 sy'n ategu Rheoliad (EU) Rhif 508/2014 Senedd Ewrop a'r Cyngor ar Gronfa'r Môr a Physgodfeydd Ewrop sy'n ymwneud â'r meini prawf ar gyfer cyfrifo'r costau ychwanegol a ysgwyddir gan weithredwyr wrth bysgota, ffermio, prosesu a marchnata cynhyrchion pysgodfeydd a dyframaeth penodol o'r ardaloedd pellaf.
22. Rheoliad Gweithredu gan y Comisiwn (EU) Rhif 1242/2014 sy'n pennu rheolau yn unol â Rheoliad (EU) Rhif 508/2014 Senedd Ewrop a'r Cyngor ar Gronfa'r Môr a Physgodfeydd Ewrop sy'n ymwneud â chyflwyno data cronol perthnasol ar weithrediadau.
23. Rheoliad Gweithredu gan y Comisiwn (EU) Rhif 1243/2014 sy'n pennu rheolau yn unol â Rheoliad (EU) Rhif 508/2014 Senedd Ewrop a'r Cyngor ar Gronfa'r Môr a Physgodfeydd Ewrop sy'n ymwneud â'r wybodaeth sydd i'w hanfon gan Aelod-wladwriaethau, yn ogystal ag ar anghenion o ran data a synergedd rhwng ffynonellau data posibl.

24. Rheoliad Gweithredu gan y Comisiwn (EU) Rhif 1362/2014 sy'n pennu rheolau ar weithdrefn symlach ar gyfer cymeradwyo diwygiadau penodol i raglenni gweithredol sy'n cael eu hariannu o dan Gronfa'r Môr a Physgodfeydd Ewrop a rheolau sy'n ymwneud â fformat a sut i gyflwyno'r adroddiadau blynyddol ar weithredu'r rhaglenni hynny.
25. Rheoliad Dirprwyedig y Comisiwn (EU) 2015/852 sy'n ategu Rheoliad (EU) Rhif 508/2014 Senedd Ewrop a'r Cyngor sy'n ymwneud â'r achosion o beidio â chydymffurfio ac â'r achosion difrifol o beidio â chydymffurfio â rheolau'r Polisi Pysgodfeydd Cyffredin a all arwain at ymyrryd â therfyn amser ar gyfer talu neu at atal taliadau o dan Gronfa'r Môr a Physgodfeydd Ewrop.
26. Rheoliad Dirprwyedig y Comisiwn (EU) 2015/1930 sy'n ategu Rheoliad (EU) Rhif 508/2014 Senedd Ewrop a'r Cyngor ar Gronfa'r Môr a Physgodfeydd Ewrop o ran y meini prawf ar gyfer cadarnhau lefel y cywiriadau ariannol ac ar gyfer defnyddio cywiriadau ariannol cyfradd safonol.
27. Rheoliad Dirprwyedig y Comisiwn (EU) 2015/1930 sy'n diwygio Rheoliad Dirprwyedig (EU) Rhif 508/2014 mewn perthynas â'r cyfnod pan na fydd modd cyflwyno ceisiadau am gymorth o Gronfa'r Môr a Physgodfeydd Ewrop.
28. Rheoliad Gweithredu gan y Comisiwn 2016/1701 sy'n pennu rheolau ar y fformat ar gyfer cyflwyno cynlluniau gwaith ar gyfer casglu data yn y sectorau pysgodfeydd a dyframaeth.

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

Mae gan Gynulliad Cenedlaethol Cymru gymhwysedd deddfwriaethol ar gyfer rheoli pysgodfeydd mewn perthynas â Chymru (sy'n cynnwys y môr tiriogaethol allan mor bell allan â 12 milltir forol). Mae gan Weinidogion Cymru gymhwysedd gweithredol ar gyfer rheoli pysgodfeydd ar draws Cymru, Parth Cymru a chychod pysgota o Gymru y tu hwnt i'r Parth hwnnw.

Yn achos y rhan fwyaf o'r swyddogaethau o dan Reoliadau 2018, Gweinidogion Cymru fydd y 'weinyddiaeth pysgodfeydd' ar gyfer Cymru, Parth Cymru a chychod pysgota o Gymru y tu hwnt i'r Parth hwnnw.

Fodd bynnag, mae Rheoliadau 2018 yn trosglwyddo swyddogaethau cyfyngedig i'r Ysgrifennydd Gwladol yn unig, mewn meysydd lle'r ystyriwyd bod angen cadw system ar gyfer y DU gyfan, megis Cofrestr Fflyd Bysgota'r Deyrnas Unedig, y Gofrestr o Gychod Pysgota'r DU a Chofrestr y DU ar gyfer Pysgota Anghyfreithlon, Pysgota Heb Roi Gwybod amdano a Physgota Heb ei Reoleiddio.

Mae swyddogaethau a drosglwyddir i'r Ysgrifennydd Gwladol yn gyfystyr â swyddogaethau un o Weinidogion y Goron at ddibenion Atodlen 7B i Ddeddf Llywodraeth Cymru 2006. Pe bai'r Cynulliad yn cyflwyno Bil yn y dyfodol i geisio dileu neu addasu'r swyddogaethau hyn, gallai hynny olygu y bydd gofyn ymgynghori â Llywodraeth y DU.

Diben y diwygiadau

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

Mae Rheoliadau 2018 yn gwneud nifer o gywiriadau i gyfraith yr UE a ddargedwir. Mae angen gwneud y cywiriadau hynny er mwyn cadw'r ddeddfwriaeth sy'n sail i'r Polisi Pysgodfeydd Cyffredin. Bydd yn sicrhau y bydd rheolau sydd yn y gyfres o ddeddfwriaeth yr UE sy'n ymwneud â'r Polisi Pysgodfeydd Cyffredin yn gallu parhau i weithio ar draws y DU unwaith y bydd y DU yn ymadael â'r UE.

Mae Rheoliadau 2018 yn gwneud y nifer lleiaf o gywiriadau technegol sydd eu hangen er mwyn mynd i'r afael â diffygion yn y Polisi Pysgodfeydd Cyffredin, ac sydd eu hangen er mwyn sicrhau bod y rheolau sydd yn y Polisi hwnnw yn parhau i weithio'n effeithiol, fel y bo pysgota yn nyfroedd y DU yn parhau i gael ei reoleiddio mewn ffordd gynaliadwy. Mae'r rheoliadau hyn yn gosod rheolau'r Polisi Pysgodfeydd Cyffredin ar gychod y DU pa le bynnag y maent, yn amodol ar reolau gwahanol sy'n deillio o gytundebau rhyngwladol, ac ar bob cwch yn nyfroedd y DU.

Nid oes unrhyw newidiadau o sylwedd yn cael eu gwneud i effaith y Polisi Pysgodfeydd Cyffredin ac ni ddisgwylir unrhyw newid i'r ffordd y mae pysgodfeydd yn ymgymryd â'u gweithgareddau. Bydd y rhan fwyaf o'r swyddogaethau a gyflawnir gan gyrff yr UE ar hyn o bryd yn cael eu cyflawni gan y gweinyddiaethau pysgodfeydd, ac yn achos Cymru, Parth Cymru a chychod pysgota o Gymru y tu hwnt i'r Parth hwnnw, Gweinidogion Cymru fydd y weinyddiaeth honno.

Mae Rheoliadau 2018 a'r Memorandwm Esboniadol sy'n gysylltiedig ag ef, sy'n nodi effaith y diwygiadau, i'w gweld yma: <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-common-fisheries-policy-amendment-etc-eu-exit-regulations-2018>

Pam y rhoddwyd cydsyniad

Rhoddwyd cydsyniad i Lywodraeth y DU wneud y cywiriadau hyn o ran, ac ar ran, Cymru am resymau'n ymwneud ag effeithlonrwydd, hwylustod ac oherwydd natur dechnegol y diwygiadau. Mae'r diwygiadau wedi cael eu hystyried yn llawn; ac nid oes unrhyw wahaniaeth o ran polisi. Diben y diwygiadau hyn yw sicrhau bod y llyfr statud yn parhau i weithio ar ôl i'r DU ymadael â'r UE.

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

**Rheoliadau'r Polisi Pysgodfeydd Cyffredin (Diwygio etc.) (Ymadael â'r
UE) 2018**

Dyddiad gosod yn Senedd y DU: 27 Tachwedd 2018

Sifftio

A fydd angen eu sifftio yn Senedd y DU?	Bydd
Gweithdrefn:	Negyddol arfaethedig
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Tŷ'r Cyffredin	11 Rhagfyr 2018
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	Anhysbys
Y dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	13 Rhagfyr 2018
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur xx
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Nid yw'n ofynnol

Gweithdrefn graffu

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

Sylwadau

Bwriedir i'r Rheoliadau hyn gael eu gwneud gan Lywodraeth y DU yn unol ag adran 8 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, a pharagraff 21 o Atodlen 7 i'r Ddeddf.

Mae Polisi Pysgodfeydd Cyffredin (PPC) yr UE yn rheoleiddio gweithgareddau pysgota a'r broses o orfodi'r gweithgareddau hynny yn nyfroedd y DU. Mae'r PPC yn cynnwys tua 100 o Reoliadau'r UE sy'n gosod dull cyffredin o ran rheoli pysgodfeydd yn gynaliadwy ar draws yr UE a'i ddyfroedd. Mae'r Rheoliadau'n cael effaith uniongyrchol yng nghyfraith y DU.

Mae'r Rheoliadau hyn yn gwneud diwygiadau technegol i fynd i'r afael â diffygion yn neddfwriaeth y PPC.

Mae'r Cynghorwyr Cyfreithiol yn cytuno â'r datganiad a osodwyd gan Lywodraeth Cymru dyddiedig 30 Tachwedd 2018 ynghylch effaith y Rheoliadau hyn.

Mae'r crynodeb uchod a chynnwys y Memorandwm Esboniadol i'r Rheoliadau hyn yn cadarnhau eu heffaith.

Nid yw'r Cynghorwyr Cyfreithiol yn ystyried bod unrhyw faterion arwyddocaol yn codi o dan baragraff 8 o'r Memorandwm ar Fil yr Undeb Ewropeaidd (Ymadael) a Sefydlu Fframweithiau Cyffredin mewn perthynas â'r Rheoliadau hyn.

Nid yw'r Cynghorwyr Cyfreithiol wedi nodi unrhyw reswm cyfreithiol i geisio cynnig cydsyniad o dan Reol Sefydlog 30A.10 mewn perthynas â'r Rheoliadau hyn.



Llywodraeth Cymru
Welsh Government

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL	Cyflwyno a Chyhoeddi Adroddiad Terfynol Comisiwn y Gyfraith ar Gyfraith Cynllunio yng Nghymru
DYDDIAD	3 Rhagfyr 2018
GAN	Lesley Griffiths AC, Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig

Mae cydgrynhoi, moderneiddio a symleiddio deddfwriaeth cynllunio yn hanfodol er mwyn sicrhau bod y gyfraith sy'n sylfaen i'r system gynllunio yn diwallu anghenion penodol Cymru, er mwyn galluogi'r holl randdeiliaid sy'n gweithredu ac yn defnyddio'r system i ddefnyddio a deall y gyfraith sy'n effeithio arnynt yn uniongyrchol.

Comisiynwyd Comisiwn y Gyfraith Cymru a Lloegr gan Lywodraeth Cymru i gwblhau adolygiad manwl o'r maes sylweddol a chymhleth hwn o'r gyfraith, gyda'r nod o symleiddio a chydgrynhoi'r deddfwriaeth. Er mwyn llywio'r adolygiad, fe aeth Comisiwn y Gyfraith ati i gynnal dau ymarferiad ymgynghori cyhoeddus. Gofynnwyd am safbwyntiau ar ei bapur cwmpasu (Mehfin 2016), a oedd yn cyflwyno ei safbwyntiau amodol, ac ar ei bapur ymgynghori sylweddol (Tachwedd 2017), a oedd yn cynnwys ei gynigion manwl.

Heddiw, rwyf wedi derbyn adroddiad terfynol Comisiwn y Gyfraith, sy'n cyflwyno argymhellion cynhwysfawr i mi eu hystyried. Mae'r adroddiad hwn yn seiliedig ar ystyriaeth fanwl o'r materion ac ymgynghori eang. Heddiw mae'n dda gennyf gyflwyno i'r Cynulliad gopi o'r adroddiad 'Cyfraith Cynllunio yng Nghymru: Adroddiad Terfynol', sydd wedi'i gyhoeddi gan Gomisiwn y Gyfraith ar ei wefan hefyd:

<https://www.lawcom.gov.uk/project/cyfraith-cynllunio-yng-nghymru/>

Hoffwn ddiolch i Gomisiwn y Gyfraith am gwblhau'r adolygiad sylweddol hwn, a fydd yn darparu sylfaen dystiolaeth bwysig i ni gychwyn y broses o symleiddio a chydgrynhoi deddfwriaeth cynllunio.

Bydd pob argymhelliad yn cael ei ystyried yn fanwl er mwyn paratoi ymateb y Llywodraeth i'r adroddiad terfynol. Yn unol â'r protocol a gytunwyd rhwng Llywodraeth Cymru a Chomisiwn y Gyfraith ar 2 Gorffennaf 2015, darperir ymateb interim gan y Llywodraeth o fewn 6 mis i gyflwyno a chyhoeddi'r adroddiad, a darperir ymateb manwl o fewn 12 mis. Wrth baratoi'r ymateb hwn, byddaf yn gweithio'n agos gyda'm cydweithwyr Gweinidogol sydd â chyfrifoldebau neu ddiddordebau polisi sy'n gysylltiedig â rhai o'r newidiadau a argymhellir.



Elin Jones AC, Llywydd

Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

Eitem 8.2

Y Gwir Anrh Carwyn Jones AC
Prif Weinidog Cymru
Llywodraeth Cymru
Bae Caerdydd
CF99 1NA

Eich cyf:
Ein cyf: EJ/CE

4 Rhagfyr 2018

Annwyl Carwyn

Yng nghyfarfod Fforwm y Cadeiryddion ar 28 Tachwedd 2018 trafodwyd rôl y Cynulliad a'i bwyllgorau wrth graffu ar ddeddfwriaeth sy'n ymwneud â Brexit. Mynegodd y Cadeiryddion bryder sydd ganddynt ynghylch rôl y Cynulliad yn y broses o ddeddfu ar gyfer Brexit.

Dywedodd y Cadeiryddion fod Llywodraeth Cymru wedi ceisio pwerau dirprwyedig i Weinidogion Cymru yn nifer o Filiau'r DU sy'n ymwneud â Brexit, yn hytrach na chyflwyno ei Biliau ei hun i'r Cynulliad graffu arnynt. O ran yr is-ddeddfwriaeth sydd ei hangen i gywiro'r llyfr statud cyn ymadael â'r Undeb Ewropeaidd, deallaf eich bod wedi cytuno i gyfran sylweddol o'r ddeddfwriaeth hon gael ei gwneud gan Weinidogion y DU, gan ddefnyddio pwerau cydredol ar ran Gweinidogion Cymru.

Er fy mod i, a Fforwm y Cadeiryddion, yn deall eich bod wedi gwneud y penderfyniadau hyn ar sail effeithlonrwydd i'r llywodraethau sy'n rhan o'r broses, y pryder a fynegwyd gan y Cadeiryddion yw bod hyn yn dod ar draul rôl y Cynulliad ac felly gallu'r Aelodau i gynrychioli buddiannau pobl Cymru yn effeithiol yn y broses o ddeddfu ar gyfer Brexit.

Wrth gynrychioli'r safbwyntiau a fynegwyd imi gan y Cadeiryddion, a chan weithredu er budd sefyllfa'r Cynulliad ym mhroses Brexit, rwy'n pryderu mai effaith gronnol y penderfyniadau hyn gan Lywodraeth Cymru yw anwybyddu rôl y Cynulliad yn anfwriadol.

Croesewir gohebiaeth yn Gymraeg neu Saesneg / We welcome correspondence in Welsh or English

Cynulliad Cenedlaethol Cymru

Bae Caerdydd, Caerdydd, CF99 1NA

Llywydd@cynulliad.cymru

www.cynulliad.cymru

0300 200 7403

National Assembly for Wales

Cardiff Bay, Cardiff, CF99 1NA

Llywydd@assembly.wales

www.assembly.wales

0300 200 7403

Tudalen y pecyn 233



Elin Jones AC, Llywydd

Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

Rwy'n siŵr y byddech yn cytuno bod craffu ar ddeddfwriaeth sy'n dod o fewn cymhwysedd y Cynulliad neu Weinidogion Cymru, yn enwedig mewn perthynas â meysydd polisi pwysig sy'n effeithio ar ddinasyddion, yn elwa o waith craffu llawer mwy penodol i Gymru pan gaiff ei hystyried gan y Cynulliad.

Nid yw'r cyfle cyfyngedig ar gyfer gwaith craffu a gynigir gan gonfensiynau cydsyniad deddfwriaethol a gweithdrefnau cysylltiedig yn cyd-fynd â phrosesau craffu deddfwriaethol llawn y Cynulliad.

At hynny, mae gwaith craffu deddfwriaethol gan y Cynulliad yn cynnig proses fwy hygyrch a thryloyw i randdeiliaid Cymru a'r cyhoedd, yn ogystal â sicrhau bod y gyfraith yn cael ei gwneud yn ein dwy iaith swyddogol.

Yn union fel yr ydych wedi ymdrechu i sicrhau rôl i Lywodraeth Cymru ym mhroses Brexit, rhaid imi sicrhau bod y Cynulliad, a'i Aelodau, yn gallu chwarae'r rôl llawn y cawsant eu hethol i'w chyflawni.

Rwy'n deall bod pwyllgorau'r Cynulliad yn bwriadu ymgymryd â gwaith pellach yn y maes hwn ac rwy'n siŵr y byddant yn parhau i godi materion gyda chi a Gweinidogion Cymru.

Yn y cyfamser, gofynnaf ichi ystyried y pryderon a fynegwyd a byddwn yn ddiolchgar am eich sylwadau ar sut y gallech sicrhau bod Llywodraeth Cymru yn gwneud popeth o fewn ei gallu i alluogi'r Cynulliad i chwarae ei ran llawn wrth ddeddfu ar gyfer Brexit.

Rwyf wedi anfon copi o'r llythyr hwn at Gadeiryddion pwyllgorau'r Cynulliad, Arweinydd y Tŷ, ac Ysgrifennydd y Cabinet dros Gyllid (yn sgil ei rôl ym mhroses Brexit).

Yn gywir

Elin Jones AC
Llywydd

Y Gwir Anrhydeddus Carwyn Jones AC
Prif Weinidog Cymru

13 Tachwedd 2018

Annwyl Carwyn

Offerynnau Statudol Cyfansawdd a Chyd-Offerynnau Statudol

Rwy'n ysgrifennu atoch mewn perthynas â mater a godwyd gennych gyntaf gyda Phwyllgor Materion Cyfansoddiadol a Deddfwriaethol y Pedwerydd Cynulliad (Pwyllgor y Pedwerydd Cynulliad), sef gwneud offerynnau statudol cyfansawdd a chyd-offerynnau statudol a gaiff eu gosod gerbron Cynulliad Cenedlaethol Cymru a Dau Dŷ'r Senedd.

Yn eich llythyr ar 1 Tachwedd 2011 at Gadeirydd Pwyllgor y Pedwerydd Cynulliad, gwnaethoch ddweud na fydd Senedd y DU yn craffu ar offerynnau statudol cyffredinol mewn ieithoedd heblaw Saesneg. Defnyddiwyd y ddadl hon mewn ymateb i lawer o'n hadroddiadau dilynol, yn fwyaf diweddar gan Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig (atodaf y llythyr).

Fel y gwyddoch, rydym wedi parhau i adrodd i'r Cynulliad Cenedlaethol, yn unol â'r Rheolau Sefydlog, pan na chaiff offerynnau statudol cyfansawdd neu gyd-offerynnau statudol eu gosod yn y Gymraeg a'r Saesneg. Ym mis Ionawr, ysgrifennais at Mr Charles Walker AS, Cadeirydd Pwyllgor Gweithdrefn Tŷ'r Cyffredin i geisio eglurhad ynghylch a oes unrhyw rwystrau i offerynnau statudol cyfansawdd neu gyd-offerynnau statudol dwyieithog gael eu gosod yn Nhŷ'r Cyffredin.

Wrth wneud hynny, tynnais sylw at y ffaith ein bod yn ymwybodol o offerynnau statudol cyfansawdd a osodwyd gerbron y Cynulliad Cenedlaethol a Senedd y DU yn Saesneg yn unig ond a oedd yn cynnwys rhywfaint o destun Cymraeg, er enghraifft, Rheoliadau Cadwraeth Cynefinoedd a Rhywogaethau 2017 (OS 2017 Rhif 1012). Tynnais sylw hefyd at Reoliadau Cymwysterau Ewropeaidd (Proffesiynau Iechyd a Gofal Cymdeithasol) 2016 (OS 2016 Rhif 1030), a wnaed gan Lywodraeth y DU sy'n defnyddio pwerau Harri'r VIII i



ddiwygio Deddf dwyieithog y Cynulliad sydd, o ganlyniad, yn cynnwys nifer o dudalennau o destun Cymraeg.

Ar 25 Hydref cefais ateb gan Mr Walker, lle mae'n nodi:

"House of Commons officials have considered the matter in detail and advise me that there is no bar in the standing orders, resolutions or practice of the House to prohibit the laying of general statutory instruments before the House of Commons in a bilingual form."

Mae Mr Walker yn awgrymu mai cyfrifoldeb yr adran ddrafftio, yn y lle cyntaf, fyddai gwarantu cywirdeb unrhyw ddrafftio mewn iaith heblaw am Saesneg sydd i gael effaith statudol.

Byddwn yn ddiolchgar am eich sylwadau a'ch barn am oblygiadau hyn ar gyfer paratoi cyd-offerynnau statudol ac offerynnau statudol cyfansawdd yn y dyfodol erbyn 28 Tachwedd 2018.

Atodaf fy llythyr at Mr Walker a'i ateb.

Mae'r llythyr hwn yn cael ei gopïo i Jeremy Miles AC, Cwnsler Cyffredinol Cymru.

Yn gywir



Mick Antoniw

Cadeirydd

Croesewir gohebiaeth yn Gymraeg neu'n Saesneg.
We welcome correspondence in Welsh or English.

Amgaeëdig - Llythyr gan Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig, 16 Hydref 2018; Llythyr at Gadeirydd Pwyllgor Gweithdrefn Tŷ'r Cyffredin, 15 Ionawr 2018; Llythyr gan Gadeirydd Pwyllgor Gweithdrefn Tŷ'r Cyffredin, 25 Hydref 2018



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



Llywodraeth Cymru
Welsh Government

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

SeneddCLA@assembly.wales

16

Hydref 2018

Annwyl Mick

Diolch am eich llythyr dyddiedig 8 Hydref ynghylch y Rheoliadau Bwyd a Materion Gwledig (Dirymiadau Amrywiol). Rwy'n ymddiheuro na chafodd datganiad ei gynnwys o fewn y Memorandwm Esboniadol ynghylch pam na chafodd yr Offeryn Statudol ei wneud yn ddwyieithog. Fel a nodwyd gennych, maen'n arferol i Lywodraeth Cymru gynnwys yr wybodaeth hon yn y Memorandwm Esboniadol; camgymeriad anfwriadol oedd hyn y tro hwn. Byddaf yn sicrhau bod swyddogion yn ymwybodol bod y Pwyllgor yn disgwyl gweld yr wybodaeth hon yn y Memorandwm Esboniadol.

Rheoliadau cyfansawdd oedd y rhain; a chawsant eu drafftio gan Lywodraeth y DU. Nid yw offerynau statudol cyfansawdd yn cael eu gwneud yn ddwyieithog, gan na wnaiff y Senedd ystyried offerynau statudol sy'n cael eu drafftio mewn unrhyw iaith ar wahân i Saesneg. Nid oedd felly yn cael ei ystyried yn rhesymol nac yn ymarferol i ddarparu'r offeryn hwn yn y Gymraeg.

*Xn gywir
Lesley*

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

Charles Walker AS
Cadeirydd y Pwyllgor Gweithdrefnau, Tŷ'r Cyffredin

15 Ionawr 2018

Annwyl Charles,

Offerynnau Statudol Cyfunol ac ar y Cyd

Rydym yn aml fel rhan o'n rôl ffurfiol yn craffu ar offerynnau statudol cyfansawdd ac ar y cyd sydd wedi'u gosod gerbron y Cynulliad Cenedlaethol, yn ogystal â Thŷ'r Cyffredin a Thŷ'r Arglwyddi.

Bydd offerynnau statudol o'r fath yn effeithio ar gymunedau ledled Cymru a gallant ymwneud â meysydd pwysig megis yr amgylchedd, iechyd, gofal cymdeithasol a chyflenwad dŵr a gorfodi traffig ar y ffyrdd.

O ran pob offeryn statudol a osodir gerbron y Cynulliad Cenedlaethol, mae gofynion ein Rheolau Sefydlog yn ei gwneud yn ofynnol i ni roi gwybod os na chaiff offerynnau o'r fath eu gosod yn y Gymraeg a'r Saesneg. Mae Gweinidogion Cymru bob amser yn gosod offerynnau cyfansawdd ac ar y cyd yn Saesneg yn unig, ac felly rydym yn adrodd i'r Cynulliad Cenedlaethol ar y sail honno.

Mewn llythyr i'r pwyllgor a oedd yn rhagflaenydd i ni ym mis Tachwedd 2011, dywedodd y Prif Weinidog fod offerynnau cyfansawdd yn cael eu gosod yn Saesneg yn unig gan na fydd Senedd y DU yn craffu ar offerynnau statudol cyffredinol mewn ieithoedd heblaw'r Saesneg.

Mae enghreifftiau diweddar o offerynnau statudol cyfansawdd yr ydym wedi craffu arnynt ac nad ydynt yn cael eu gwneud yn ddwyieithog, yn cynnwys:



- The NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution (Amendment) gorchymyn 2017 (SI 2017 No. 959)

Dyweddodd y Memorandwm Esboniadol a oedd yn cyd-fynd â'r Gorchymyn, "fel Gorchymyn Cyfansawdd, ni fydd yr Offeryn yn ddwyieithog ac mae'r Prif Weinidog wedi cadarnhau'r sefyllfa hon yn flaenorol i'r Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol."

- Rheoliadau Tynnu Dŵr (Darpariaethau Trosiannol) 2017 (OS 2017 Rhif. 1047)

Nododd y Memoranda Esboniadol a oedd yn cyd-fynd â'r offeryn statudol hwn, gan ei fod yn berthnasol i Gymru a Lloegr, ac yn destun cymeradwyaeth y Cynulliad Cenedlaethol a'r Senedd, ni ystyrir felly ei fod yn rhesymol ymarferol iddo gael ei wneud yn ddwyieithog.

Rydym hefyd yn ymwybodol o offerynnau statudol cyfansawdd a osodwyd gerbron y Cynulliad Cenedlaethol a Senedd y DU yn Saesneg yn unig ond sydd, serch hynny, yn cynnwys rhywfaint o destun Cymraeg. Er enghraifft, Rheoliadau Gwarchod Cynefinoedd a Rhywogaethau 2017 (OS 2017 1012) a'r Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) (Diwygio) 2018 (heb eu gwneud eto).

Yn ogystal, rydym wedi dod yn ymwybodol o offeryn statudol – European Qualifications (Health and Social Care Professions) Regulations 2016 (SI 2016 No. 1030) a wnaed gan Lywodraeth y DU sy'n defnyddio pwerau Harri VIII i ddiwygio Deddf ddwyieithog y Cynulliad ac o ganlyniad mae llawer o dudalennau o destun Cymraeg.

Mae rhai o'r offerynnau hyn felly'n enghreifftiau o Senedd y DU yn craffu ar offerynnau statudol sy'n cynnwys yr iaith Gymraeg.



O dan yr amgylchiadau, byddwn yn ddiolchgar pe gallech gadarnhau a oes unrhyw rwystrau i offerynnau statudol dwyieithog cyfansawdd neu ar y cyd yn cael eu gosod yn Nhŷ'r Cyffredin.

Mae hyn wrth gwrs yn bwysig yng nghyd-destun y DU yn ymadael â'r UE a chraffu ar is-ddeddfwriaeth a wneir gan Weinidogion y DU sy'n codi o'r Bil UE (Ymadael), boed yn gweithredu'n annibynnol mewn meysydd datganoledig o dan bwerau Cymal 7 neu ar y cyd â Gweinidogion Cymru mewn meysydd datganoledig o dan bwerau Atodlen 2.

Yr wyf yn anfon llythyrau tebyg at Gadeiryddion y Pwyllgor Offerynnau Statudol (Tŷ'r Cyffredin), Pwyllgor Craffu ar Is-ddeddfwriaeth (Tŷ'r Arglwyddi) a'r Cyd-bwyllgor ar Offerynnau Statudol.

Edrychaf ymlaen at glywed gennych yn fuan.

Yn gywir



Mick Antoniw

Cadeirydd

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.





Procedure Committee

Journal Office, House of Commons London SW1A 0AA

Tel 020 7219 3351/3319 Fax 020 7219 2269 Email proccom@parliament.uk Website www.parliament.uk

From Charles Walker OBE MP, Chair of the Committee

Mick Antoniw AM
Chair, Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
Cardiff CF99 1NA

25th /
October 2018

Composite and Joint Statutory Instruments

Thank you for your letter of 15 January. I must first of all apologise for the long time it has taken to reply to you.


I am not party to the advice which formed the basis of the then First Minister's assertion to your predecessor Committee to the effect that the UK Parliament "will not scrutinise general statutory instruments in languages other than English.". I understand that the Welsh Government maintains this position and has recently reasserted it.

House of Commons officials have considered the matter in detail and advise me that there is no bar in the standing orders, resolutions or practice of the House to prohibit the laying of general statutory instruments before the House of Commons in a bilingual form. Where there is a statutory requirement to lay material before the House in both languages, or where the Welsh is required in part of the material, it seems odd to assert, as the Welsh Government seems to, that the House of Commons will not scrutinise such material: the principal purpose of requiring such material to be laid is surely to allow it to be examined by parliamentarians as well as to make it available to the general public.

It would in the first instance be the responsibility of the drafting Department to vouch for the accuracy of any drafting in a language other than English which is to have statutory effect.

I cannot of course speak for the current practices of committees of this House which undertake scrutiny of delegated legislation: the degree to which such instruments are examined in detail will depend on the composition of the committees and their staff. You will no doubt be aware of the case where the Joint Committee on Statutory Instruments reported a defect in the Registration of Marriages (Amendment) Regulations 1997 on the grounds of material discrepancies between the English and Welsh forms of the Regulations: the discrepancy was discovered as a result of a close reading of both texts by a Welsh-speaking member of the Committee.

Should the Welsh Government require clarification as to the practices of the House of Commons regarding the laying of papers in languages other than English, and of committees in scrutinising bilingual instruments, I am sure that the officials of the House of Commons Service would be happy to assist.

*Y
Laws*


Charles Walker OBE MP



Mick Antoniw AC
Cadeirydd
Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Cynulliad Cenedlaethol Cymru
Bae Caerdydd
CAERDYDD
CF99 1NA

SeneddCLA@assembly.wales

28 Tachwedd 2018

Annwyl Mick

Ysgrifennaf fel ymateb i'ch llythyr dyddiedig 13 Tachwedd 2018 ynglŷn ag offerynnau statudol cyfansawdd a chyd-offerynnau statudol sy'n cael eu gosod gerbron Cynulliad Cenedlaethol Cymru a Dau Dŷ'r Senedd ond nad ydynt yn cael eu gosod yn y Gymraeg a'r Saesneg, ill dwy. Fel y gofynnwyd, nodais ein safbwynt a rhai arsylwadau isod.

Mae'n bwysig inni gadw mewn cof y gwahaniaeth rhwng dau fath o ddeddfwriaeth:

1. Deddfwriaeth sy'n cynnwys testunau ar wahân yn y Gymraeg a'r Saesneg, lle mae gan y ddau destun statws cyfartal yn y gyfraith.
2. Deddfwriaeth sy'n cynnwys un testun Saesneg, ond y mae darpariaethau ynddo sy'n cynnwys diwygiadau i destunau deddfwriaeth yn y categori cyntaf uchod; hy i offeryn, Deddf neu Fesur sy'n cynnwys y fersiynau Cymraeg a Saesneg, ac sy'n cynnwys rhywfaint o destun Cymraeg felly.

Disgrifiwyd y ddau gategori o ddeddfwriaeth fel rhai "dwyieithog" fodd bynnag, mae Llywodraeth Cymru yn ystyried mai'r categori cyntaf yn unig sy'n ddwyieithog. Rwy'n credu bod y Cynulliad Cenedlaethol yn rhannu'r farn hon, gan fod eich pwyllgor yn adrodd am offerynnau statudol cyfansawdd a chyd-offerynnau statudol nad sy'n cael eu gwneud yn ddwyieithog, fel sy'n ofynnol gan Reolau Sefydlog y Cynulliad.

Mae Llywodraeth Cymru yn cydnabod bod yr arfer o ddefnyddio testun Cymraeg lle y bo angen yn Senedd y DU, mewn cyfraith sylfaenol ac eilaidd sydd yn uniaith Saesneg fel arall, wedi hen fagu plwyf. Rhai enghreifftiau yn unig o achosion o'r fath a ddarperir yn eich llythyr chi a llythyr Mr Charles Walker.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400
YP.PrifWeinidog@llyw.cymru • ps.firstminister@gov.wales

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

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.

Fodd bynnag, rydym bob amser wedi deall nad oedd yn bosibl gosod offeryn statudol gerbron Senedd y DU pan nad Saesneg oedd y **brif** iaith – hy ni fyddai'n bosibl gosod fersiwn Gymraeg offeryn statudol dwyieithog. O ganlyniad, pe byddai offeryn statudol cyfansawdd neu gyd-offeryn statudol yn cael ei ddrafftio yn ddwyieithog, ni ellid gosod y testun Cymraeg ac ni fyddai'n ddarostyngedig i weithgarwch craffu felly.

Y ddealltwriaeth hon arweiniodd at y datganiad yn fy llythyr ym mis Tachwedd 2011 ac sy'n sail i ymateb arferol Llywodraeth Cymru i adroddiadau eich pwyllgor ynglŷn â chyd-offerynnau statudol ac offerynnau statudol cyfansawdd uniaith.

Nodaf, mewn trafodaeth ynglŷn â'r mater hwn ar 9 Mawrth 2015, fod eich pwyllgor rhagflaenol wedi clywed fod Clerc Tŷ'r Cyffredin wedi dweud y gellid gosod cyfieithiad o offeryn statudol, fel Papur Gorchymyn o bosibl, ond ni fyddai'n dechnegol yn rhan o'r ddeddfwriaeth. Roedd yn ymddangos bod hyn yn cadarnhau ein dealltwriaeth ninnau.

Mae llythyr Mr Walker yn cyfeirio at y posibilrwydd o osod deddfwriaeth ddwyieithog yn Nhŷ'r Cyffredin, fodd bynnag nid yw'n glir pa ddiffiniad o "ddwyieithog" a gymhwysir na pha statws a fyddai'n cael ei roi i'r ddogfen.

Gallai fod yn ddeniadol i gychwyn ystyried gosod testun Cymraeg offeryn statudol fel Papur Gorchymyn, fodd bynnag byddai hyn yn rhoi iddo statws tebyg i femorandwm esboniadol neu asesiad effaith yn hytrach na'r statws cyfartal a roddir iddo gan Ddeddf Llywodraeth Cymru. Rwy'n deall y gallai hyn godi cwestiynau ynghylch statws cyfreithiol testun Cymraeg yr offeryn, pe byddai Dau Dŷ'r Senedd yn cymeradwyo neu'n diddymu testun Saesneg yr offeryn statudol yn unig.

Mae Llywodraeth Cymru yn ystyried mai cyd-offerynnau statudol ac offerynnau statudol cyfansawdd yw'r dull cywir ar gyfer rhai amgylchiadau, er enghraifft lle y bo'n ofynnol inni yn ôl y gyfraith wneud offeryn yn y modd hwn, lle nad oes cymhwysedd gennym i wneud darpariaeth lawn oherwydd y modd y mae pwerau wedi cael eu datganoli neu lle'r ydym yn dymuno sicrhau cysondeb o ran ein dull ac amseru pan fydd cryn gorgyffwrdd rhwng materion gweithredol ar draws ffiniau. Fodd bynnag, rydym yn cydnabod wrth ddilyn y dull hwn ein bod yn ymgodymu â'r dasg anodd o daro'r cydbwysedd cywir rhwng hygyrchedd y gyfraith o ran y Gymraeg a hygyrchedd y gyfraith o ran cael yr holl ddarpariaethau perthnasol ar draws ffiniau tiriogaethol mewn un offeryn. Felly, mewn llawer o achosion, dim ond yn Lloegr, neu yn yr Alban neu Ogledd Iwerddon y mae rhai o ddarpariaethau cyd-offeryn statudol ac offeryn statudol cyfansawdd yn gymwys. Pe byddai offerynnau o'r fath yn ddwyieithog, byddai'n ofynnol i'r adran sy'n drafftio deddfwriaeth ei chyfieithu i iaith nad yw'n berthnasol i'r diriogaeth y mae'n gymwys ynddi.

Hyderaf y bydd yr arsylwadau hyn o gymorth wrth ichi ystyried y mater hwn. Rwy'n anfon copi o'r llythyr hwn at y Cwnsler Cyffredinol.

Yn gywir



CARWYN JONES



Eich cyf/Your ref
Ein cyf/Our ref

Mick Antoniw AC
Chair
Constitution and Legislative Affairs Committee

6 December 2018

Dear

I am writing in response to the Constitution and Legislative Affairs Committee's report, *Scrutiny of regulations made under the Trade Bill*, published on 8 October. Although the report focuses specifically on the Trade Bill, which relates to my portfolio responsibilities, it raises wider issues relating to Brexit-related legislation. In responding to the report, I set out the Welsh Government's view in relation to these broader points.

Recommendations one to five and seven in the report relate to the committee's view that regulations made under clause 1 of the Trade Bill should be subject to the sifting mechanism included in the European Union (Withdrawal) Act 2018 (the 2018 Act). Our response to these recommendations is addressed below.

The sifting mechanism introduced under the 2018 Act was a solution identified to address a very particular set of circumstances. The Welsh Government has no objection in principle to an enhanced role for legislatures when circumstances warrant it. However, we do not see that clause 1 of the Trade Bill meets the threshold.

The Welsh Government's view is that sifting is appropriate in relation to subordinate legislation flowing from Brexit primary legislation in cases where the power:

- a) is very broad in scope;
- b) can be exercised concurrently or jointly by UK and Welsh Ministers;
- c) can be used to amend primary legislation; and
- d) is subject to the executive's choice of procedure at the point of laying.

In such cases, the Welsh Government is content for Standing Order 27.9B to apply, rather than the requirement placed on UK Ministers by paragraph 3(7) of Schedule 7 to the 2018 Act referred to in recommendation 3, for the reasons outlined in the Business Committee

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswilt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Ken.Skates@llyw.cymru
Correspondence.Ken.Skates@gov.wales

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

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.

report, *Proposed Amendments to Standing Orders 21, 27, 30B and 30C - Implementation of European Union (Withdrawal) Act 2018*, published on 3 October.

In relation to point a, the Welsh Government recognises the power to make regulations under clause 1 of the Trade Bill is wide in the sense that it could be used to implement both major and minor changes to the Agreement on Government Procurement (GPA).

However, we do not consider the clause 1 power, focused on GPA commitments as it is, is sufficiently broad enough to warrant a sifting mechanism. The power can only be used to implement commitments the UK has already signed up to and cannot be used to alter those commitments. The only scope for discretion is in how the commitments are implemented. Given the public procurement focus of the commitments, it is difficult to envisage a circumstance in which the manner of implementation, rather than the commitment itself, would be of major concern.

In relation to point b, the clause 1 power could be exercised concurrently or jointly.

In relation to point c, we see nothing in clause 1 to suggest that the power could be used to amend the Government of Wales Act 2006 or other primary legislation, other than to the extent that retained direct EU legislation can be said to be primary legislation (and therefore the amendments suggested by the committee in recommendation six are not necessary).

And, finally, in relation to point d, the clause 1 power is subject to the negative procedure – there is no choice of procedure for UK or Welsh Ministers.

Therefore, it is our view the clause 1 power does not meet the criteria and a sifting mechanism is not appropriate.

We welcome and support recommendation eight, relating to the application of the Intergovernmental Agreement (IGA) principles to the Trade Bill. Our expectation is that negotiations on all Brexit legislation, including the Trade Bill, should be conducted in line with the principles set out in the IGA.

We also support recommendation nine, which relates to the extension to the Welsh Ministers of the duty to lay reports under clause 5. We are happy to lay such reports before the National Assembly in the same way UK Ministers will lay reports before the UK Parliament.

I thank the committee for its consideration of these matters and its report. I trust the response is helpful to your scrutiny of the Trade Bill and look forward to continuing to work with the committee.

Yours sincerely



Ken Skates AC/AM

Ysgrifennydd y Cabinet dros yr Economi a Thrafnidiaeth
Cabinet Secretary for Economy and Transport

Mick Antoniw
Committee Chair
Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

5

December 2018

Dear Mick

Further to my appearance at Committee on 5 November, I am writing to respond further to the Committee's questions regarding the UK Agriculture Bill.

I was clear during the scrutiny session I would not recommend the National Assembly for Wales gives its consent to the Bill until outstanding issues are resolved, in particular, the red meat levy and WTO clauses.

I am pleased to be able to inform the Committee the red meat levy issue has now been resolved to my satisfaction. A Government-supported amendment now forms part of the Bill. I am content the amendment accurately reflects the mechanisms for levy collection in Wales and provides an appropriate means to resolve the long-standing issue of repatriation of red meat levy.

On the issue of WTO rules, I have had positive discussions recently with the Secretary of State for Environment, Food and Rural Affairs. Officials are also making good progress in finding a solution. I hope to be able to agree an approach which meets the principles of the Inter-Governmental Agreement and respects the devolution settlement. It may not be necessary to amend the Bill itself to achieve this. It could be possible to reach a satisfactory outcome through an agreement between Governments as to how the existing provision should operate. I am hopeful we will be able to reach agreement with the UK Government on this remaining issue. I will then be able to recommend the Assembly gives its consent in due course.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

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

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

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.

The Committee asked me to consider the need for a sunset clause for the Welsh provisions in the Bill. I will, of course, continue to reflect on this as Parliament and the Assembly continue to scrutinise the Bill. However, my intention is still for the powers to be transitional and for them to be superseded by a Wales Agriculture Bill, using the most suitable legal mechanism for doing so at the appropriate time.

As requested, I attach the joint statement issued by the Welsh Government and the UK Government on 12 September on progress with developing frameworks for agricultural support. As agriculture is a devolved area, the key point is each administration of the UK will have the opportunity to develop policy to suit their own unique circumstances once the UK has left the EU. Work will continue with the appropriate governance put in place at the appropriate time. The Ministerial Quadrilateral forum last met in Cardiff on 19 November and considered progress on the development of frameworks from across the portfolio. The four Administrations have agreed to progress work on strengthening the governance arrangements and structures ahead of the UK's departure from the EU, including revising the current Ministerial Quadrilateral forum.

Finally, I noted the Committee's concern regarding the Delegated Powers and Regulatory Reform Committee's report on the UK Agriculture Bill. I would like to reassure the Committee I am carefully considering the report with the UK Government and will respond to the points raised, as is traditional, as the Bill passes through the House of Lords.



Lesley Griffiths AC/AM

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

Agricultural Framework Progress Update: September 2018

A joint statement by the UK Government and the Welsh Government

As agriculture is a devolved area, each administration of the UK will have the opportunity to develop policy to suit their own unique circumstances once the UK has left the EU. Both the UK Government and the Welsh Government have consulted separately on new agriculture policies to replace the Common Agriculture Policy (CAP) in England and Wales, respectively.

The UK Government published a 'Framework Analysis' policy paper in March 2018. This paper set out 153 areas where EU law currently intersects with devolved competence. This is where the UK Government and devolved administrations would need to work together to determine whether we would need UK or GB wide common approaches in future. It will be guided by the principles agreed at JMC (EN) in October 2017. The paper also identified a list of 24 policy areas to be subject to more detailed discussion to explore whether a legislative common framework arrangement might be needed, in whole or in part. The list included "agricultural support".

As we leave the EU and the CAP, we want our farmers and those with an interest in agriculture to be clear that we have been and will continue to work closely together. We want to achieve better outcomes for our farming industry, and to facilitate an open and transparent dialogue as our proposals develop.

The Agriculture Bill provides both administrations with new powers to bring replacement schemes into effect, as well as extending some provisions to Northern Ireland.¹ However, the Bill does not contain a legislative framework for these powers. This reflects the fact that the UK Government and Welsh Government are of the view, based on discussions to date, that the vast majority of policy areas can be suitably managed through non-legislative, inter-governmental coordination.

As part of this process, we are proposing to develop an administrative framework for coordinating agricultural support spending and changes to marketing standards. The aim of this is to ensure effective co-ordination and dialogue between the administrations on how any changes to legislation in one part of the UK may affect other parts. This framework will tie in closely with planned common UK frameworks being developed for other policy areas. There are other areas identified within "Agricultural Support" that we are expecting to work on while the Agriculture Bill passes through the UK Parliament. These include market intervention and data collection and sharing. Other agriculture-related frameworks within the 24 identified, on organic farming, the environmental release of GMOs, zotech and fertiliser regulations are also being discussed. Our joint aim is to reach agreement on all of these areas in order for frameworks to be in place by the end of the Implementation Period (December 2020).

We are also discussing arrangements for cross-border holdings, which is of particular interest to the numerous farmers along the English/Welsh border. We are aware that farmers with holdings that straddle borders and those with holdings located in another administration will want to ensure their businesses can operate as smoothly as possible. Our intention here is to reduce bureaucracy and to provide clarity for these businesses.

It is still the ambition of the UK Government and the Welsh Government to work towards a UK-wide approach where that is necessary. We fully expect our close collaboration to continue with the Department of Agriculture, Environment and Rural Affairs in Northern Ireland (DAERA) and the Scottish Government over the next 18 months to agree and

implement administrative frameworks to set out future working and coordination on agriculture. As part of that process, we welcome the views of Parliament, the devolved legislatures and wider stakeholders on these proposals.

ⁱ Given the absence of local Ministers in Northern Ireland to take decisions about future agricultural policy, UK Government Ministers have sought to ensure as far as possible that the status quo can be maintained until a new policy direction can be established. There is a need to take care not to prejudge or constrain the ability of an incoming Minister, NI Executive and NI Assembly to decide what is appropriate for the Northern Ireland agri-food sector. The overarching principles that have been applied when considering the extension of clauses to NI are:

- to ensure the continuation of a legal basis to provide the current suite of agricultural support payments (and options) post EU exit;
- to ensure that the NI Executive has maximum flexibility to develop future agricultural policy consistent with the principles agreed by JMC(EN), including ensuring the functioning of the UK Internal Market; and
- that the Agriculture Bill does not constrain the ability of the NI Executive to continue current schemes and options available under the Rural Development Programme and Common Market Organisation provided for by existing and retained EU legislation, for as long as NI Ministers consider this appropriate.



Elin Jones AC, Llywydd

Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

Eitem 8.6

Mick Antoniw AC
Cadeirydd
Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Cynulliad Cenedlaethol Cymru
Bae Caerdydd
CF99 1NA

Eich cyf:
Ein cyf: EJ/AD

6 Rhagfyr 2018

Annwyl Mick

Diwygio'r Cynulliad: Ariannu'r Comisiwn Etholiadol ac atebolrwydd y sefydliad

Hoffwn dynnu eich sylw, fel Cadeirydd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol, at fy llythyr at holl Aelodau'r Cynulliad ar 12 Tachwedd, yn benodol y cynigion y mae'r Comisiwn yn eu hystyried, i wneud y Comisiwn Etholiadol yn atebol i'r Cynulliad, ac iddo gael ei ariannu gan Gomisiwn y Cynulliad, mewn perthynas ag etholiadau datganoledig yng Nghymru (h.y. etholiadau llywodraeth leol ac etholiadau'r Cynulliad).

Mae'r Comisiwn yn edrych yn fanwl ar y cyfle i Fil Senedd ac Etholiadau (Cymru), y disgwylir iddo gael ei gyflwyno yn y flwyddyn newydd, gyflwyno'r cynigion hyn. Os hoffech gwrdd â mi i drafod y cynnig a'r dull gweithredu o ran deddfu ar y mater hwn, byddwn yn fwy na bodlon gwneud hynny.

Yn gywir

Elin Jones AC
Llywydd

Croesewir gohebiaeth yn Gymraeg neu Saesneg / We welcome correspondence in Welsh or English

Cynulliad Cenedlaethol Cymru

Bae Caerdydd, Caerdydd, CF99 1NA

Llywydd@cynulliad.cymru

www.cynulliad.cymru

0300 200 7403

National Assembly for Wales

Cardiff Bay, Cardiff, CF99 1NA

Llywydd@assembly.wales

www.assembly.wales

0300 200 7403

Tudalen y pecyn 251



Elin Jones AC, Llywydd

Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

At: Holl Aelodau'r Cynulliad

12 Tachwedd 2018

Annwyl Aelod

Y wybodaeth ddiweddaraf am ddiwygio'r Cynulliad

Ar 10 Hydref, pleidleisiodd Aelodau'r Cynulliad i ganiatáu i Gomisiwn y Cynulliad gyflwyno Bil, yn gynnar yn 2019, i newid enw'r Cynulliad, gostwng yr oedran pleidleisio ar gyfer etholiadau'r Cynulliad i 16, diwygio'r gyfraith ar anghymhwysu pobl rhag bod yn Aelodau a gwneud newidiadau eraill i drefniadau etholiadol a threfniadau mewnol y Cynulliad.

Rwyf yn ysgrifennu atoch i roi'r wybodaeth ddiweddaraf i chi am ddau fater a drafodwyd yng nghyfarfod y Comisiwn ar 5 Tachwedd 2018:

- Cynigion ar gyfer ariannu'r Comisiwn Etholiadol ac atebolrwydd y sefydliad; a
- Newidiadau i enw'r Cynulliad a'r ffordd y disgrifir Aelodau.

Cynigion ar gyfer ariannu'r Comisiwn Etholiadol ac atebolrwydd y sefydliad

O ganlyniad i ddatganoli pwerau yn Neddf Cymru 2017, mae'r Comisiwn Etholiadol wedi cysylltu â mi a Llywodraeth Cymru i gynnig y dylid deddfu i wneud y Comisiwn Etholiadol yn atebol i'r Cynulliad ac iddo gael ei ariannu gan Gomisiwn y Cynulliad, mewn perthynas ag etholiadau datganoledig yng Nghymru (h.y. etholiadau llywodraeth leol ac etholiadau'r Cynulliad).

Yn y cyfarfod ar 5 Tachwedd, roedd Comisiynwyr yn cydnabod y gallai fod yn fuddiol pe bai'r Comisiwn Etholiadol yn atebol i'r Cynulliad am ei waith yng Nghymru ac yn nodi'r ffaith bod Llywodraeth Cymru yn cefnogi cynnig y Comisiwn Etholiadol. Mae Gweithrediaeth yr Alban wrthi'n ystyried cynigion tebyg.

Cytunodd y Comisiynwyr i ofyn am sylwadau eu grwpiau ar yr egwyddor y byddai'r Comisiwn Etholiadol yn atebol i'r Cynulliad ac yn cael ei ariannu gan y Cynulliad. Bydd y mater yn cael ei drafod ymhellach yng nghyfarfod nesaf y Comisiwn, gan ystyried sut y gellid defnyddio Bil Senedd ac Etholiadau (Cymru) fel ffordd o gyflwyno'r cynigion hyn.

Croesewir gohebiaeth yn Gymraeg neu Saesneg / We welcome correspondence in Welsh or English

Cynulliad Cenedlaethol Cymru

Bae Caerdydd, Caerdydd, CF99 1NA

Llywydd@cynulliad.cymru

www.cynulliad.cymru

0300 200 7403

National Assembly for Wales

Cardiff Bay, Cardiff, CF99 1NA

Llywydd@assembly.wales

Tudalen y pecyn 252

0300 200 7403



Elin Jones AC, Llywydd

Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

Newidiadau i enw'r Cynulliad a'r ffordd y disgrifir Aelodau

Trafododd y Comisiynwyr yr adborth a ddarparwyd gan Aelodau a grwpiau gwleidyddol mewn ymateb i'm llythyr dyddiedig 16 Hydref ynghylch y teitlau neu'r disgrifiadau a ddefnyddir ar gyfer yr Aelodau ac enw'r sefydliad yn y dyfodol.

Trafododd y Comisiynwyr yr opsiynau a chytunwyd y byddwn i'n dewis yr enw a'r disgrifiadau i'w cynnwys yn y Bil a gaiff ei gyflwyno, gan mai fi yw'r Aelod sy'n Gyfrifol am y Bil.

Fel y gwyddoch, bydd angen cefnogaeth o leiaf 40 o Aelodau er mwyn pasio'r Bil. Fy mwriad felly, wrth gyflwyno'r Bil, yw cynnwys yr enw ar gyfer y sefydliad a'r disgrifiadau ar gyfer yr Aelodau sy'n adlewyrchu barn y rhan fwyaf o'r grwpiau gwleidyddol yn y Cynulliad ar hyn o bryd.

Rwyf wedi penderfynu mai'r enw newydd a gyflwynir yn y Bil fydd yr enw uniaith, "Senedd" ac mai'r enw ar gyfer Aelodau fydd "Aelodau'r Senedd / Members of the Senedd".

Enw byr y Bil a gaiff ei gyflwyno bydd Bil Senedd ac Etholiadau (Cymru).

Bydd y Bil yn destun prosesau craffu deddfwriaethol arferol y Cynulliad. Bydd y Comisiwn yn ystyried yn ofalus unrhyw argymhellion a wneir gan bwyllgorau'r Cynulliad yng Nghyfnod 1, ac unrhyw welliannau a gyflwynir a allai sicrhau'r consensws gwleidyddol sydd ei angen.

Y camau nesaf

Cyflwynir Bil Senedd ac Etholiadau (Cymru) yn gynnar yn y flwyddyn newydd. Yn y cyfamser, mae fy swyddogion yn trefnu sesiynau galw heibio ar gyfer Aelodau'r Cynulliad neu aelodau o staff cymorth a hoffai drafod y Bil neu unrhyw agwedd arall ar waith y Comisiwn o ran diwygio'r Cynulliad. Cynhelir y sesiynau yn y Cwrt yn ystod y Cyfarfod Llawn. Caiff Aelodau wybod y dyddiadau a'r amseroedd cyn bo hir.

Yn gywir

Elin Jones AC
Llywydd

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon