Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Lleoliad:
Ystafell Bwyllgora 2 - y Senedd

Dyddiad:
Dydd Llun, 31 Mawrth 2014

Amser:
14.30

Cynulliad Cenedlaethol Cymru
National Assembly for Wales

I gael rhagor o wybodaeth, cysylltwch a:
Gareth Williams
Clerc y Pwyllgor
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Agenda

1 **Cyflwyniad, ymddiheuriadau, dirprwyon a datganiadau o fuddiant**

2 **Offerynnau nad ydynt yn cynnwys materion i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 na 21.3** (Tudalennau 1 - 2)
CLA(4)-11-14 - Papur 1 - Offerynnau statudol sydd ag adroddiadau clir

Offerynnau'r Weithdrefn Penderfyniad Negyddol

CLA387 - Gorchymyn Twbercwlosis (Diwygiadau Amrywiol) (Cymru) 2014
Y weithdrefn negyddol: Fe'i gwnaed ar: 12 Mawrth 2014. Fe'i gosodwyd ar: 14 Mawrth 2014; Yn dod i rym ar: 6 Ebrill 2014.

CLA390 - Rheoliadau Cymorth Gwladol (Symiau at Anghenion Personol) (Asesu Adnoddau) a Ffioedd Gofal Cymdeithasol (Cymru) (Diwygiadau Amrywiol) 2014
Y weithdrefn negyddol: Fe'u gwnaed ar: 14 Mawrth 2014. Fe'u gosodwyd ar: 17 Mawrth 2014; Yn dod i rym ar: 7 Ebrill 2014.

CLA391 - Rheoliadau Ardaloedd Rheoli Mwg (Tanwyddau Awdurdodedig) (Cymru) 2014
Y weithdrefn negyddol: Fe'u gwnaed ar: 12 Mawrth 2014. Fe'u gosodwyd ar: 18 Mawrth 2014; Yn dod i rym ar: 11 Ebrill 2014.

CLA392 - Gorchymyn Ardaloedd Rheoli Mwg (Lleoedd Tân Esempt) (Cymru) 2014
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3 Offerynnau sy'n cynnwys materion i gyflwyno adroddiad arnynt i'r Cynulliad o dan Reol Sefydlog 21.2 neu 21.3

Offerynnau Cyfansawdd y Weithdrefn Penderfyniad Negyddol

CLA388 - Rheoliadau Gwastraff (Cymru a Lloegr) (Diwygio) 2014 (Tudalennau 3 - 31)
Y weithdrefn negyddol: Fe'u gwnaed ar: 14 Mawrth 2014. Fe'u gosodwyd ar: 14 Mawrth 2014; Yn dod i rym ar: 6 Ebrill 2014.

CLA(4)-11-14 - Papur 2 - Rheoliadau
CLA(4)-11-14 - Papur 3 -Memorandwm Esboniadol
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CLA389 - Rheoliadau Addysg (Benthyciadau Myfyrwyr) (Ad-daliad) (Diwygio) 2014
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CLA(4)-11-14 - Papur 5 - Rheoliadau
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4 Memorandwm Cydsyniad Deddfwriaethol: Y Bil Dadreoleiddio

(Tudalennau 42 - 70)
CLA(4)-11-14 - Papur 8 - nodyn cyngor cyfreithiol
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CLA(4)-11-14 - Papur 10 - Llythyr gan y Cadeirydd, y Bil Dadreoleiddio drafft

Y Bil Dadreoleiddio
http://services.parliament.uk/bills/2013-14/deregulation.html

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

(ix) lle mae unrhyw fater sy'n ymwneud â busnes mewnol y pwyllgor, neu fusnes mewnol y Cynulliad, i gael ei drafod.

Blaenraglen Waith (Tudalennau 71 - 73)
CLA(4)-11-14 - Papur 11 - Rhaglen waith

Bil Cymru: Y wybodaeth ddiweddaraf (Tudalennau 74 - 82)
CLA(4)-11-14 - Papur 12

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Offerynnau Statudol Gydag Adroddiadau Clir

31 Mawrth 2014

CLA387 - Gorchymyn Twbercwlosis (Diwygiadau Amrywiol) (Cymru) 2014

Gweithdrefn: Negyddol

Mae'r Gorchymyn hwn yn diwygio Gorchymyn Twbercwlosis (Cymru) 2010 (O.S. 2010/1379 (Cy. 122)) a Gorchymyn Twbercwlosis (Cymru) 2011 (O.S. 2011/692 (Cy. 104)). Mae'n galluogi Gweinidogion Cymru i gymeradwyo milfeddygon i gynnal profion diagnostig penodol ar gyfer twbercwlosis (profion perthnasol) ar anifeiliaid buchol, ac anifeiliaid nad ydynt yn anifeiliaid buchol, ac i archwilio a marcio'r anifeiliaid hynny. Mae'n darparu ar gyfer gofynion awtomatig i fod yn gymwys i geidwad pan fo prawf perthnasol yn datgelu adweithydd neu adweithydd amhendant.

CLA390 – Rheoliadau Cymorth Gwladol (Symiau at Anghenion Personol) (Asesu Adnoddau) a Ffioedd Gofal Cymdeithasol (Cymru) (Diwygiadau Amrywiol) 2014

Gweithdrefn: Negyddol

Mae'r Rheoliadau yn ymwneud ag asesiad ariannol o unigolion ar gyfer codi tâl am ofal preswyl a gofal nad yw'n ofal preswyl a bydd yn:

<u>Gofal preswyl</u>

- codi'r swm o arian wythnosol y mae'n rhaid i awdurdodau lleol ganiatáu i breswylydd mewn gofal ei gadw i'w wario ar eitemau personol o £24.50 i £25.00 yr wythnos;
- codi'r cyfyngiad cyfalaf sengl (gwerth eiddo, cynilion a buddsoddiadau a gaiff eu dal er mwyn penderfynu ai'r preswylydd neu'r awdurdod lleol fydd yn ariannu'r gofal preswyl) o £23,250 i £24,000;

Gofal nad yw'n ofal preswyl

- gwneud newid technegol sy'n cyflwyno diystyriaeth rannol mewn asesiadau ariannol o'r £10 yr wythnos cyntaf o Daliadau Incwm Gwarantedig a wneir o dan Orchymyn y Lluoedd Arfog a'r Lluoedd Wrth Gefn (Cynllun Iawndal) 2011 i wr, gwraig, partner sifil neu oedolyn sy'n ddibynnol ar y cyn-aelod o'r lluoedd arfog;
- cynyddu'r swm uchaf y caiff awdurdod lleol ei benderfynu fel tâl rhesymol am ddarparu gwasanaethau neu gyfuniad o wasanaethau, a'r swm uchaf y caiff awdurdod lleol ei benderfynu fel swm rhesymol am gyfraniad neu ad-daliad am dderbyn taliad uniongyrchol, o £50 yr wythnos i £55 yr wythnos.

CLA391 -Rheoliadau Ardaloedd Rheoli Mwg (Tanwyddau Awdurdodedig) (Cymru) 2014

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn yn dirymu, disodli a diwygio'r Rheoliadau cyfatebol o 2008. Mae'r Rheoliadau hyn yn pennu pob tanwydd sydd yn awr wedi'i awdurdodi i'w ddefnyddio mewn ardaloedd rheoli mwg yng Nghymru (h.y. ardal a ddynodir gan awdurdod lleol yn ardal rheoli mwg).

CLA392 - Gorchymyn Ardaloedd Rheoli Mwg (Lleoedd Tân Esempt) (Cymru) 2014

Gweithdrefn: Negyddol

Mae Deddf Aer Glân 1993 yn gwahardd gollwng mwg mewn ardaloedd rheoli mwg. Fodd bynnag, mae Deddf 1993 yn darparu ar gyfer esemptio dosbarthiadau penodedig o leoedd tân. Mae'r Gorchymyn hwn yn nodi'r lleoedd tân esempt hynny (ac yn dirymu, disodli a diwygio'r Gorchymyn 2013 cyfatebol).

STATUTORY INSTRUMENTS

2014 No. 656

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

The Waste (England and Wales) (Amendment) Regulations 2014

Made - - - -	*14th March 2014*
Laid before Parliament	*14th March 2014*
Laid before the National Assembly for Wales	*14th March 2014*
Coming into force - -	*6th April 2014*

The Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, have in accordance with section 2(4) of the Pollution Prevention and Control Act 1999(**a**) consulted—

(a) the Environment Agency;

(b) the Natural Resources Body for Wales;

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

(d) such other bodies or persons as they consider appropriate.

The Secretary of State is designated(**b**) for the purposes of the European Communities Act 1972(**c**) in relation to the environment. The Welsh Ministers are designated(**d**) for the purposes of that Act in relation to the prevention, reduction and management of waste.

The Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, make these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, sections 5(3)(b) and (4)(b) and 8(2) of the Control of Pollution (Amendment) Act 1989(**e**), and section 2 of, and Schedule 1 to, the Pollution Prevention and Control Act 1999.

(**a**) 1999 c.24. Functions of the Secretary of State under section 2 (except in relation to offshore oil and gas exploration and exploitation), so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by article 3 of S.I. 2005/1958. Those functions were then transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32). Section 2(4)(aa) was inserted by S.I. 2013/755 (W 90), article 4(1), Schedule 2, Part 1, paragraphs 394 and 395(1) extending the consultation duty in section 2(4) to the Natural Resources Body for Wales to the extent that regulations made under section 2 apply to Wales.

(**b**) S.I. 2008/301.

(**c**) 1972 c.68.

(**d**) S.I. 2010/1552.

(**e**) 1989 c.14. In relation to Wales, the functions of the Secretary of State conferred by that Act were transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Those functions were then transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32). Section 5, as originally enacted, was substituted in England and Wales by the Clean Neighbourhoods and Environment Act 2005 (c.16), section 37. For the definition of "appropriate person" and "prescribed" see section 9(1) of the Control of Pollution (Amendment) Act 1989 (the definition of "appropriate person" was inserted by section 39(1) of the Clean Neighbourhoods and Environment Act 2005).

Title, commencement and interpretation

1.—(1) These Regulations—

(a) may be cited as the Waste (England and Wales) (Amendment) Regulations 2014;

(b) come into force on 6th April 2014.

(2) In these Regulations, "the Waste Regulations" means the Waste (England and Wales) Regulations 2011(**a**).

Amendment of the Waste Regulations

2. The Waste Regulations are amended in accordance with regulations 3 to 7.

Regulation 24 (interpretation)

3. For regulation 24(3)(b), substitute—

"(b) references to a prescribed offence include a relevant offence within the meaning of regulation 29".

Regulation 29 (procedure for registration)

4. Regulation 29 is amended as follows—

(a) for paragraph (5)(b), substitute—

"(b) the applicant or another relevant person has been convicted of a relevant offence";

(b) after paragraph (5), insert—

"(5A) A "relevant offence" means an offence under—

(a) the Scrap Metal Dealers Act 1964(**b**),

(b) section 1, 8, 9, 10, 11, 17, 18, 22 or 25 of the Theft Act 1968(**c**), where the offence relates to scrap metal or is an environment-related offence,

(c) section 170 or 170B of the Customs and Excise Management Act 1979(**d**), where the offence relates to scrap metal,

(d) section 9 of the Food and Environment Protection Act 1985(**e**),

(e) section 1, 5 or 7 of the Control of Pollution (Amendment) Act 1989(**f**),

(f) section 33, 34 or 34B of the Environmental Protection Act 1990(**g**),

(g) section 85, 202 or 206 of the Water Resources Act 1991(**h**),

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(**a**) 2011/988, amended by S.I. 2013/755 (W 90); there are other amending instruments but none is relevant.

(**b**) 1964 c.69. This Act was repealed by section 19(1)(a) of the Scrap Metal Dealers Act 2013 (c.10).

(**c**) 1968 c.60. Section 9 was amended the Sexual Offences Act 2003 (c. 42), sections 139 and 140 and Schedule 6, paragraph 17 and Schedule 7. Section 18 was amended by the Fraud Act 2006 (c. 35), section 14(1) and (3) and Schedule 1, paragraph 4 and Schedule 3. Section 25 was also amended by that Act, section 14(1) and Schedule 1, paragraph 8(a).

(**d**) 1979 c.2. Section 170B was inserted by the Finance (No 2) Act 1992 (c.48), section 3 and Schedule 2, paragraph 8.

(**e**) 1985 c.48.

(**f**) Section 1 was amended by the Environmental Protection Act 1990 (c.43), section 162 and paragraph 31 of Schedule 15 and by the Clean Neighbourhoods and Environment Act 2005 (c.16), sections 35 and 107 and Part 4 of Schedule 5. Section 7(3) was amended by the Environmental Protection Act 1990, section 162 and paragraph 31 of Schedule 15 and by the Environment Act 1995 (c.25), section 112 and paragraph 3 of Schedule 19.

(**g**) 1990 c.43. Section 33 was amended by S.I. 2005/894, 2006/937, 2007/3538, 2009/1799 and 2010/675 and by the Environment Act 1995 (c. 25) and the Clean Neighbourhoods and Environment Act 2005 (c.16). Section 34 was amended by the Deregulation and Contracting Out Act 1994 (c. 40) and by S.I. 1999/1820, 2000/1973, 2005/2900, 2006/123 and 2007/3538. Section 34B was inserted by the Clean Neighbourhoods and Environment Act 2005 (c. 16) and amended by S.I. 2007/3538.

(**h**) 1991 c.57. Section 85 was repealed by S.I. 2010/675, regulation 107 and Schedule 26, Part 1, paragraph 8(2)(a). Section 202 was amended by the Environment Act 1995 (c. 25), section 120, Schedule 22, paragraph 128. Section 206 was also amended by that Act, section 112, Schedule 19, paragraphs 5(2) to 5(5) and by the Water Act 2003 (c. 37), section 101(1), Schedule 7, Part 1, paragraph 11.

(h) the Transfrontier Shipment of Waste Regulations 1994(**a**),

(i) section 110 of the Environment Act 1995(**b**),

(j) the Control of Major Accident Hazards Regulations 1999(**c**),

(k) the Pollution Prevention and Control (England and Wales) Regulations 2000(**d**),

(l) Part 1 of the Vehicles (Crimes) Act 2001(**e**),

(m) regulation 17(1) of the Landfill (England and Wales) Regulations 2002(**f**),

(n) section 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002 (**g**),

(o) the Hazardous Waste (England and Wales) Regulations 2005(**h**),

(p) the Hazardous Waste (Wales) Regulations 2005(**i**),

(q) section 1 of the Fraud Act 2006(**j**), where the offence relates to scrap metal or is an environment-related offence,

(r) the Waste Electrical and Electronic Equipment Regulations 2006(**k**),

(s) regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007(**l**),

(t) the Producer Responsibility Obligations (Packaging Waste) Regulations 2007(**m**),

(u) the Transfrontier Shipment of Waste Regulations 2007(**n**),

(v) regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010(**o**),

(w) regulation 42 of these Regulations,

(x) section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(**p**),

(y) the Waste Electrical and Electronic Equipment Regulations 2013(**q**),

(z) the Scrap Metal Dealers Act 2013(**r**).

(5B) A relevant offence also includes—

(a) attempting or conspiring to commit a relevant offence;

(b) inciting or aiding, abetting, counselling or procuring the commission of a relevant offence; and

(c) an offence under Part 2 of the Serious Crime Act 2007(**s**) (encouraging or assisting crime) committed in relation to a relevant offence.

(5C) For the purposes of paragraph (5A)—

(**a**) S.I. 1994/1137. These Regulations were revoked by S.I. 2007/1711, regulation 60(1)(a) and (2).
(**b**) 1995 c.25.
(**c**) S.I. 1999/743, amended by S.I. 2005/1088; there are other amending instruments but none is relevant.
(**d**) S.I. 2000/1973. These Regulations were revoked by S.I. 2007/3538, regulation 74(1) and Schedule 22.
(**e**) 2001 c.3. Part 1 was repealed by section 19(1)(d)(i) of the Scrap Metal Dealers Act 2013.
(**f**) S.I. 2002/1559. These Regulations were revoked by S.I. 2007/3538, regulation 74(1) and Schedule 22.
(**g**) 2002 c.29. Sections 327 and 328 were amended by the Serious Organised Crime and Police Act 2005, section 102(1) and (2). Section 330 was amended by section 104(1) of that Act and by S.I. 2006/308 and 2007/3398. Sections 331 and 332 were amended by sections 102(1), (6) and (7) and 104(1), (5) and (6) of that Act and by the Crime and Courts Act 2013, section 15(3), Schedule 8, Part 2, paragraphs 108, 130 and 131.
(**h**) S.I. 2005/894, relevant amending instruments are S.I. 2007/3476 and S.I. 2011/988.
(**i**) S.I. 2005/1806 (W. 138), amended by S.I. 2011/971 (W. 141); there are other amending instruments but none is relevant.
(**j**) 2006 c.35.
(**k**) S.I. 2006/3289. These Regulations were revoked by S.I. 2013/3113, regulation 96(2)
(**l**) S.I. 2007/3538. Regulation 38 was revoked by S.I. 2010/675, regulation 108(1) and Schedule 27.
(**m**) S.I. 2007/871. to which there are amendments not relevant to these Regulations.
(**n**) S.I. 2007/1711, to which there are amendments not relevant to these Regulations.
(**o**) S.I. 2010/675, to which there are amendments not relevant to these Regulations.
(**p**) 2012 c.10. Section 146 was repealed by the Scrap Metal Dealers Act 2013, section 19(1)(f).
(**q**) S.I. 2013/3113.
(**r**) 2013 c.10.
(**s**) 2007 c.27.

"environment-related offence" means an offence which relates to the transportation, shipment or transfer of waste, or to the prevention, minimisation or control of pollution of the air, water or land which may give rise to any harm;

"harm" means—

(a) harm to the health of human beings or other living organisms;

(b) harm to the quality of the environment;

(c) offence to the senses of human beings;

(d) damage to property; or

(e) impairment of, or interference with, amenities or other legitimate uses of the environment.".

(c) after paragraph (6), insert—

"(6A) The appropriate body must, on payment of a reasonable charge, provide any person who has been provided with a certificate of registration under paragraph (6) with a copy of the certificate if requested.

(6B) The appropriate body must ensure that any copy is numbered and marked so as to show that it is a copy of the certificate and that it has been provided by the appropriate body under this regulation.".

Regulation 32 (revocation of registration)

5. For regulation 32(1)(a), substitute—

"(a) the registered person or another relevant person has been convicted of a relevant offence within the meaning of regulation 29;".

Regulation 35 (the transfer note)

6. Regulation 35 is amended as follows—

(a) in the heading, for "The transfer note" substitute "Waste information";

(b) in paragraph (2), for "("the transfer note")" substitute "("written information")";

(c) in paragraph (3)—

"(i) for "a transfer note" substitute "the written information",

(ii) for "information" substitute "matters"."

(d) in paragraphs (4) and (5), in each place where it occurs, for "transfer note" substitute "written information";

(e) in paragraph (6), for "a transfer note" substitute "the written information".

Part 10A (authority to transport controlled waste)

7. After regulation 45 (proceedings for contravention of section 1 of the Control of Pollution (Amendment) Act 1989), insert—

"PART 10A

Authority to transport controlled waste

Specified requirements under section 5 of the Control of Pollution (Amendment) Act 1989

45A.—(1) Where a person is required to produce an authority for transporting controlled waste under section 5(2)(a) (power to require production of authority, stop and search etc) of the Control of Pollution (Amendment) Act 1989—

(a) a copy of that person's certificate of registration as a carrier of controlled waste made in accordance with regulation 29(6A) and (6B) is authority for these purposes(**a**); and

(b) where the authority cannot be produced forthwith when required to do so, the authority must be produced at, or sent to, the relevant office no later than 5 working days from when required.

(2) For the purposes of paragraph (1)(b)—

(a) "relevant office" means an office of the appropriate body as may be specified by the authorised officer of a regulation authority or constable at the time the requirement is made;

(b) "working day" means any day except a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971(**b**).

(3) For the purposes of paragraph (2)—

(a) "authorised officer" has the meaning given in section 9(1B) of the Control of Pollution (Amendment) Act 1989(**c**);

(b) "regulation authority" has the meaning given in section 9(1) of that Act, as read with section 9(1A) and (1AA)(**d**).".

Dan Rogerson
Parliamentary Under Secretary of State
14th March 2014 Department for Environment, Food and Rural Affairs

Alun Davies
Minister for Natural Resources and Food
12th March 2014 one of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Waste (England and Wales) Regulations 2011 (S.I. 2011/988) ("the Waste Regulations"). The Waste Regulations transpose, for England and Wales, Directive 2008/98/EC of the European Parliament and of the Council on waste (OJ No. L 312, 22.11.2008, p3).

(**a**) Section 5(3)(a) of the Control of the Pollution (Amendment) Act 1989 provides that for the purposes of subsection (2)(a), a person's authority for transporting controlled waste is his certificate of registration as a carrier of controlled waste.
(**b**) 1971 c.80.
(**c**) Section 9(1B) of the Control of the Pollution (Amendment) Act 1989 was inserted, in relation to England and Wales, by the Clean Neighbourhoods and Environment Act, section 39(1), (3).
(**d**) The definition of "regulation authority" in section 9(1) of the Control of the Pollution (Amendment) Act 1989 was substituted by the Environment Act 1995, section 120, Schedule 22, paragraph 37(8). In the definition of "regulation authority" paragraph (aa) was inserted by S.I. 2013/755 (W 90) article 4(1), Schedule 2, Part 1, paragraphs 188 and 190(b). Section 9(1A) was inserted, in relation to England and Wales, by the Anti-Social Behaviour Act 2003, section 55(1), (3). Section 9(1AA) was inserted, in relation to England and Wales by S.I. 2011/988, regulation 48(3), Schedule 4, Part 1, paragraph 1.

Regulation 4 amends regulation 29 of the Waste Regulations by adding a new list of "relevant offences" for the purposes of refusing registration of carriers, brokers and dealers of controlled waste in accordance with regulation 29(5) and by providing for the making of copies of certificates of registration.

Regulation 6 amends regulation 35 by replacing the references in that regulation to "a transfer note" with references to "written information".

Regulation 7 inserts a new Part relating to the production of authority for transporting controlled waste (which is the certificate of registration) where this is required under section 5(2)(a) of the Control of Pollution (Amendment) Act 1989 (c.14).

A full impact assessment of the effect that this instrument will have on business, the voluntary sector and the public sector is available from Waste Regulation and Crime, Department for Environment, Food and Rural Affairs, Area 2B, Nobel House, 17 Smith Square, London, SW1P 3JR and is annexed to the Explanatory Memorandum which is available alongside the instrument on www.legislation.gov.uk.

Explanatory Memorandum to The Waste (England and Wales) (Amendment) Regulations 2014

This Explanatory Memorandum has been prepared by the Department for Natural Resources and Food 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 Waste (England and Wales) (Amendment) Regulations 2014. I am satisfied that the benefits outweigh any costs.

Alun Davies AM

Minister for Natural Resources and Food

12 March 2014

1. Description

These Regulations amend The Waste (England and Wales) Regulations 2011 (S.I. 2011/988) which transpose the revised Waste Framework Directive (Directive 2008/98/EC) in England and Wales. Part 8 of the 2011 regulations makes provision in relation to registration of carriers of waste and brokers and dealers in waste and part 9 provides for a transfer note to be completed on the transfer of waste These amending regulations make the following changes:-

- They amend regulation 35 by replacing the references in that regulation to “a transfer note” with a reference to “written information”.
- They amend regulation 29(5) of the 2011 Regulations by adding a new list of “relevant offences”. Relevant offences are taken into account by the regulators when considering an application for registration of a carrier, broker and dealer of controlled waste.
- They reinstate provisions relating to the requirement by a carrier of waste to produce their authority (an official waste registration certificate), for transporting controlled waste and provide for provisions relating to the making of copies of certificates of registration.

2. Matters of Special Interest to the Constitutional and Legislative Affairs Committee

These Regulations make minor amendments to earlier England and Wales regulations and are being made on a composite basis with the Secretary of State for DEFRA. Maintaining a consistent approach for businesses in Wales with England is considered beneficial for businesses, particularly for those businesses that operate on a cross border basis. Defra wish to bring these changes into effect by the 6 April (to meet common coming into force dates) and as we are not intending to do anything different in Wales a composite regulation is being proposed for expediency and to not disadvantage businesses in Wales.

This composite SI applies to Wales and England and is subject to approval by the National Assembly for Wales and by Parliament. It is therefore not considered reasonably practicable for this instrument to be made bilingually.

Section 2(8) of the Pollution Prevention and Control Act 1999 requires regulations made under that section, to be subject to approval by the Assembly, in the circumstances in section 2(9), that is, where the regulations are the first regulations under that section to be made in relation Wales, where they create an offence or increase a penalty for an existing offence, or where they amend or repeal any provision of an Act. Those circumstances do not apply in relation to this instrument, and it is therefore appropriate to follow negative Assembly procedure.

By virtue of section 8 Control of Pollution Act 1989, regulations made under that Act are subject to negative Assembly procedure.

By virtue of Section 2(2) European Communities Act 1972 there is a choice of Assembly procedure. The negative procedure has been proposed because the provisions do not amend any provisions of an Act or Measure and neither do they impose obligations of special importance. The amendments are relatively minor and relate to technical matters (for example Businesses may continue to use Waste Transfer Notes or choose to use alternative documentation and incur transition costs if it suits their business model). Accordingly there is no factor indicating the use of the affirmative procedure.

3. Legislative background

The Welsh Ministers will make the changes to the Waste (England and Wales) Regulations 2011 under powers contained in section 2 and Schedule 1 to the Pollution Prevention and Control Act 1999 and section 2(2) European Communities Act 1972. The Welsh Ministers are designated (European Communities (Designation) (No 2) Order 2010 [S.I.2010/1552]) for the purposes of section 2(2) ECA 1972, in relation to the prevention, reduction and management of waste. These powers were transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and are exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

The shift of emphasis from “transfer note” to “written information” proposed in Regulation 35 is consistent with the statutory requirements in section 34(1)(c)(ii) of the Environmental Protection Act 1990 (EPA) provided that when presented in the proposed more flexible format, the waste information is in writing and in aggregate, meets those statutory requirements.

This Statutory Instrument is subject to annulment of the National Assembly for Wales and follows the negative procedure.

4. Purpose and Intended Effect of the Legislation

This legislation will provide greater flexibility to business in the documentation they can use to provide a description of wastes they transfer. Evidence provided to the UK Government’s Red Tape Challenge suggests that businesses (particularly small businesses) find it burdensome to fill in Waste Transfer Notes. Around 23.5 million Waste Transfer Notes are currently produced in the UK each year at a cost of £1.22 each which includes their creation, storage and retrieval. The biggest burden of Waste Transfer Note administration falls on smaller businesses which do not contract with the larger waste management companies

for their waste arrangements. This is because these businesses have to complete the paperwork and store the Waste Transfer Notes themselves.

Although this is a response to the UK Governments Red Tape Challenge, it is considered beneficial to businesses in Wales for the same provisions to apply. These concerns have been raised by the industry and the proposals will help reduce the requirements on businesses but at the same time still meet their legal obligation under the Waste Management Duty of Care. These amending Regulations will provide greater flexibility to businesses by clarifying in the 2011 Regulations that alternative forms of documentation will be acceptable to record the information required under the statutory Duty of Care.

This change needs to be put into context next to the electronic Duty of Care (EDoC) system, launched in January 2014 which will allow the electronic recording and storage of Waste Transfer Notes. It is estimated that 80% of waste transfers will be recorded on the voluntary EDoC system. This will leave around 20% of transfers using paper Waste Transfer Notes. These changes will therefore complement EDoC and increase the flexibility for those wishing to continue to use paper-based systems.

The amendments will also provide clarity to waste carriers on the evidence they need to provide if they are required to do so by the regulator Natural Resources Wales. A person will be required to produce, or send their authorisation to carry controlled waste to the relevant regulator within 5 working days from the date they are initially required to do so, and an authorised copy of the original certificate will be acceptable to demonstrate this authority. It is essential that clear procedures are in place that allows those stopped or required to produce evidence of their status to carry waste to be able to do so and so avoid enforcement action. The proposals also set clear requirements for how and where such evidence shall be produced. This will help to make the regulators' task easier.

Natural Resources Wales (NRW) register waste carriers, brokers and dealers in Wales in accordance with the provisions set out in the 2011 Regulations. When dealing with an application for registration NRW can refer to the list of relevant convictions in the current Regulations and can refuse an application if in their opinion it is undesirable for the applicant to be authorised to transport waste or to act as a dealer or broker of controlled waste. These amendments will limit the ability of convicted criminals to become authorised as waste carriers, brokers and dealers by adding convictions for offences such as metal theft and fraud, to the current list of relevant convictions. Furthermore the changes will provide a consistent approach across environmental permitting, scrap metal dealer licensing and waste carrier legislation in the range of circumstances where relevant offences are considered.

5. Consultation

These proposals have been subject to a joint public consultation with Defra over a 6 week period with a variety of stakeholders including private businesses, regulators, local authorities, trade associations and charities. The proposals concerning Waste Transfer Notes have come from recommendations made under the UK Government Red Tape Challenge process and the proposed amendments to waste legislation have been classed by the Cabinet Office as minor. As the issues affect only the waste sector and is reducing regulatory impact it was agreed that it was reasonable to have a shorter consultation period.

Wales received 6 responses to the consultation: four from local authorities, one from a large business and another from a charity. These responses have been included in the joint summary report published by Defra. Although there was an almost 2 to 1 response against the main proposal for alternative documentation, none were able to offer any substantial reasoning to not proceed with the amendments. Given the support for the proposals came from businesses including key stakeholders such as the Federation of Small Businesses and the National Farmers Union, both the Welsh Government and UK Government intend to proceed with the proposed amendments to the 2011 Regulations and from April 2014, allow alternative information to be used to record the written description of waste.

There was strong positive support for the rest of the proposed amendments.

A list of consultees is available at: https://consult.defra.gov.uk/waste/red-tape-challenge-alternatives-to-waste-transfers

6. Regulatory Impact Assessment (RIA)

Defra and the Welsh Government have prepared a joint Impact Assessment which examines costs and benefits, which is attached to this Explanatory Memorandum. The Impact Assessment is based on the best available information.

7. Post Implementation Review

The requirement to prepare a description of waste has operated effectively since 1991. The Welsh Government will continue to discuss the management of Waste Transfer Notes with Local Authorities and Natural Resources Wales and to monitor the effectiveness of changes to the provision and the Statutory Instrument.

Title:
Consultation on alternatives to Waste Transfer Notes arising from the Red Tape Challenge and other aspects of waste regulation

Lead department or agency:
Department for Environment, Food and Rural Affairs (Defra)

Other departments or agencies:
Welsh Government

Impact Assessment (IA)

IA No: DEFRA 1535

Date: 18/11/2013

Stage: Consultation

Source intervention: Consultation

Type of measure: Secondary legislation

Contact for enquiries: Sean Quirke 0207 2384840

Summary: Intervention and Options

RPC Opinion: Awaiting Scrutiny

Cost of Preferred (or more likely Option

Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as
Unknown	Unknown	Unknown	Yes	OUT

What is the problem under consideration? Why is government intervention necessary?
The Red Tape Challenge concluded that some businesses find it burdensome to fill in Waste Transfer Notes (WTNs) that are used when waste is transferred to another person. In response we gave a commitment to (a) consult on clarifying the regulations that will allow businesses to use alternative documentation if they wish. We are also consulting on: (b) reinstating procedures on how waste carriers produce evidence of their authorisation to carry waste. The procedures were unintentionally repealed and this has caused difficulty for waste carriers and regulators; and (c) adding to the list of 'relevant offences' the Environment Agency may take into account when registering waste carriers, brokers and dealers.

What are the policy objectives and the intended effects?
The policy objectives are: (a) to provide greater flexibility to businesses by clarifying the regulations allow them to use alternative forms of documentation to record the information required under the statutory Duty of Care; (b) to provide clarity to waste carriers on the evidence they need to provide if they are required to do so by the regulator and where and when it must be produced; and (c) to limit the ability of convicted criminals to become authorised as waste carriers, brokers and dealers by allowing convictions for offences such as metal theft and fraud, in addition to the current list of relevant convictions, to be taken into consideration by the Environment Agency when considering their registration.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)
Option 0 - Do nothing. (a) Every waste movement will continue to require a WTN. (b) Waste carriers will be required to carry authorisation to transport waste at all times or risk prosecution; and (c) persons convicted of offences relating to metal theft may be able to register as waste carriers, brokers and dealers.
Option 1 - Remove references to ‘transfer notes’ in Regulation 35 of the Waste (England and Wales) Regulations 2011 and replace with 'waste information'. Option 1 is preferred as it is a permissive change, will reduce cost and administration. There is no alternative but to reinstate how waste carriers can demonstrate their authority to carry waste other than in the way previously set out. Not to do so makes the requirement to produce evidence unworkable. The addition of new 'relevant convictions' is part of a package of measures to tackle metal theft and will bring the registration of waste carriers, brokers and dealer provisions in line with 'relevant offences' listed in other waste legislation.

Will the policy be reviewed? The proposals will be reviewed in light of the consultation.

Does implementation go beyond minimum EU requirements?			N/A			
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro** Yes	**<20** Yes	**Small** Yes	**Medium** Yes	**Large** Yes	
What is the CO2 equivalent change in greenhouse gas emissions? (Million tonnes CO2 equivalent)			**Traded:** N/A	**Non-traded:** N/A		

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: Date:

Summary: Analysis & Evidence Policy Option 1

Description: (a) Waste Transfer Notes; (b) Demonstrating authorisation to transport controlled waste; (c) Waste carrier, broker and dealer registration – relevant convictions

FULL ECONOMIC ASSESSMENT

Price Base Year N/A	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	**High:** Optional	**Best Estimate:** N/A

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	N/A		N/A	N/A

Description and scale of key monetised costs by 'main affected groups'
N/A

Other key non-monetised costs by 'main affected groups'
Businesses using Waste Transfer Notes who choose to adopt alternative documentation may incur transition costs. As this is a permissive change, businesses may continue to use WTNs and therefore businesses are only expected to incur transition costs if an overall net benefit is expected. There is a potential cost to businesses using alternative documentation if they do not record all the information required on a WTN as they open themselves up to non-compliance of the law.

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional		Optional	Optional
High	Optional		Optional	Optional
Best Estimate	N/A		N/A	N/A

Description and scale of key monetised costs by 'main affected groups'
N/A

Other key non-monetised costs by 'main affected groups'
(a) All businesses will have greater flexibility in providing the information required in a WTN. There will be minimal benefit for those using EDoC (estimated to cover 80% of waste transfers), however businesses involved in the remaining 20% of transfers will benefit from this permissive change. (b) Reinstating the procedures around authority to transport waste reduces the possibility of unfair prosecution for waste carriers; and (c) adding to the list of relevant offences may reduce the risk of negative environmental impact.

Key assumptions/sensitivities/risks Discount rate (%)
Electronic Duty of Care (EDoC) is a voluntary electronic system for recording WTNs that will be launched from January 2014 and is estimated will save businesses between £7.8m- £13.4m per annum. It is also estimated that 80% of waste transfers will be dealt with via the EDoC system. Our consultation assumes that the total benefits to businesses from EDoC will be realised. Therefore the changes proposed here relate to the businesses that choose to continue using paper based systems (covering the remaining 20% of waste transfers).

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: N/A	**Benefits:** N/A	**Net:** N/A	Yes	OUT

Evidence Base (for summary sheets)

Executive summary

The Red Tape Challenge stated it was burdensome for some small businesses to fill in WTNs. In response we are proposing to clarify the legislation that alternative forms of documentation can be used instead of a WTN. Simultaneously we propose to invite consultees to suggest possible revisions to the nature of the information that is currently required to be recorded on a WTN.

The consultation proposes to amend regulation 35 of the 2011 Regulations and in particular replace the references to the 'transfer note' with 'waste information'. This will provide greater flexibility for businesses by clarifying that alternative, existing documentation can be used to record the required information. We have been working with relevant stakeholders and have received the support of the Federation of Small Businesses and Department of Business Innovation and Skills. Although we have been unable to ascertain an associated cost benefit to business with this proposal, however as it is a permissive change any businesses who do not see a benefit may continue using WTNs.

We will also be seeking to amend the 2011 Regulations to reinstate procedures which allow a waste carrier to produce their authorisation to carry controlled waste up to 5 working days after they were required to; and that a copy of the original certificate is acceptable to demonstrate this authorisation. Finally in relation to the Scrap Metal Dealers Act 2013 we will be seeking to amend the 2011 Regulations to update the relevant convictions the Environment Agency can take into account when registering waste carriers, brokers and dealers. These amendments will provide clarity to waste carriers on the evidence they need to provide if they are required to do so by the regulator and where and when it must be produced; and will limit the ability of convicted criminals to become authorised as waste carriers, brokers and dealers by allowing convictions for offences such as metal theft and fraud, in addition to the current list of relevant convictions, to be taken into consideration when considering their registration.

(a) Waste Transfer Notes

A Waste Transfer Note (WTN) is a document that details the transfer of waste from one person to another. Every load of household, industrial or commercial waste (known as controlled waste) transferred from one establishment or person to another must be covered by a WTN (this does not apply to householders). The information recorded on the WTN provides the 'written description' of waste required to meet the Waste Duty of Care provisions under section 34(1)(c) of the Environmental Protection Act 1990. Regulation 35 of the Waste (England and Wales) Regulations 2011 (2011 Regulations) sets out what must be recorded in the written description of waste in order to comply with section 34(1)(c) of the Environmental Protection Act 1990.

WTNs perform the following role in the UK's system of waste:

- They create a self-policing auditable system which tracks waste and therefore reduces the opportunity for unlawful disposal. In essence, they provide a mechanism for businesses to demonstrate that they are doing the right thing and handing their waste to an authorised person. The requirement to keep copies of WTNs provides a system whereby the Environment Agency in England and their equivalents in the devolved administrations and local authorities are able to carry out cradle to grave audits of waste in the UK.

- Supports the enforcement and prosecution by the Environment Agency in cases of illegal disposal. Many of the successful prosecutions for the illegal dumping have relied heavily on evidence obtained from WTNs.

- Helps implement the requirements of the revised Waste Framework Directive (rWFD) which requires Member States to ensure that waste is managed up the waste hierarchy, is handled by an authorised person and ensure that waste management is only treated at authorised facilities without endangering human health or the environment.

- The obligation to produce a WTN rests as much on the transferor of the waste as transferee of that waste. The way in which the requirement for a WTN has been implemented means all transferors and transferees retain a copy of a WTN. This places an obligation on businesses to both complete and store a specific document for this purpose alone.

23.5 million WTNs are currently produced in the UK each year (calculated as part of the Electronic Duty of Care (EDoC) pilot in 2010); http://www.environment-agency.gov.uk/static/documents/edoc_A4_leaflet_(PDF_2MB).pdf The Red Tape Challenge stated that it is burdensome for some small businesses to fill in WTNs.

We made a commitment as part of Defra's response to the Red Tape Challenge to consult on providing businesses with greater flexibility as to the types of documents that can be used as an alternative to WTNs.

There is already some flexibility in the system as businesses can design transfer notes themselves as long as they contain the information required by statute, although it is difficult to quantify to what extent this option is used.

There is also the option to use an annual "season ticket" and many businesses take advantage of this approach. This allows them to fill in a WTN at the start of a contract and covers all transfers for up to 12 months as long as the waste type and the parties to the transfer remain the same. This frees businesses from having to complete a WTN each time waste is transferred thus minimising the administrative burden.

As part of the EDoC pilot, project stakeholders estimated that, in 2010 the cost of filling in, storing and retrieving a WTN was about £1.22. This was based on information from waste companies who were closely involved in developing the EDoC system. In many cases, large waste management companies take care of the WTN requirements as part of the service they provide to businesses and local authorities. Smaller businesses are less likely to contract with large waste management companies and therefore may face a bigger burden of WTN administration. It is assumed that many of these businesses have to complete the paperwork and store the WTNs themselves, incurring disproportionately higher costs.

The policy objective is to reduce the administrative burden on businesses having to complete WTNs by giving them a clearer option to use alternative forms of documentation as evidence instead such as invoices, receipts or orders to record the required information.

(b) Demonstrating authorisation to transport controlled waste

All persons who carry waste as part of a business or for profit must be registered with the relevant regulator (Environment Agency, Natural Resources Wales). The regulator issues waste registration certificates to those who register to carry waste. They also issue official copy cards for those who want them as a convenient way of carrying around their proof of registration.

There is no duty on a waste carrier to have their certificate or a copy card with them when transporting waste. Local authorities and the regulators have the power to require a person to produce their authority to transport waste in much the same way as the Police do for driving licences or insurance by issuing a form requiring the person to produce evidence.

Prior to the Waste (England and Wales) Regulations 2011 (2011 Regulations) a regulation existed in the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991 which set out:

- how a person could produce their authority to transport waste when this is not done at the time of request (i.e. allowing them to produce this up to 7 days later); and

- that copy certificates were acceptable as proof of registration (therefore not restricting registered carriers to carry around the original certificate).

This description of how to comply was unintentionally left out of the 2011 Regulations which recast the waste carrier provisions from predecessor regulations. The omission of these regulations has caused confusion to the relevant regulators as well as to waste carriers. It has taken away the flexibility for carriers not to carry their original certificate around at all times and there is anecdotal evidence that some people have been prosecuted for non-compliance.

The aim of the consultation is simply to recognise this fact and amend the error by reinstating a very similar provision. The new provision differs very slightly by allowing production up to **5 working days after the request** rather than 7 (calendar) days. The provision has limited scope and places no additional burden on businesses although it is important in tackling potential crime.

(c) Waste carrier, broker and dealer registration – relevant convictions

The Environment Agency and Natural Resources Wales register waste carriers, brokers and dealers under the Control of Pollution (Amendment) Act 1989 (the 1989 Act) and in accordance with the provisions set out in the Waste (England and Wales) Regulations 2011 (the 2011 Regulations).

The Environment Agency may refuse registration if, in its opinion, it is undesirable for the applicant to be authorised to transport or to act as a broker or dealer of controlled waste and the applicant or another relevant person has been convicted of one or more of the offences set out in regulation 29(b) of the 2011 Regulations. This provision is similar but not the same as the relevant convictions considerations under the operator competence provisions of the environmental permitting regime. The Environment Agency may also revoke an environmental permit or a registration as a carrier, broker or dealer of a person latterly convicted of a relevant offence.

The Government has taken a number of measures to tackle ‘metal theft’. Key amongst these measures is the introduction of the Scrap Metal Dealers Act 2013 (the 2013 Act). The 2013 Act introduces the concept of scrap dealers being subject to a licensing system by local authorities. A licence may be refused or revoked where a dealer is convicted of a relevant offence.

As legitimate scrap metal dealers will invariably also be required to be registered as waste carriers, brokers or dealers or treat waste under an environmental permit, it is desirable that the list of relevant offences for which convictions will need to be declared should be the same under the environmental permitting, waste carrier, broker and dealers registration and scrap metal dealer licensing. Furthermore, the list of relevant offences should include those related to metal theft or the handling of stolen metal. The Environment Agency has already altered its guidance to applicants to broaden the range of relevant convictions for the purpose of obtaining an environmental permit. Unfortunately the 1989 Act does not provide for the relevant offences to be set out in guidance.

Accordingly the purpose of this consultation is to add additional offences that are connected to metal theft to the list of relevant offences in regulation 29(5) of the 2011 Regulations (See Annex A).

The list of relevant offences may need to be periodically updated if and when new offences are added to the 2013 Act.

The policy objective is to prevent those convicted of relevant offences from registering as waste carriers, brokers or dealers by ensuring persons applying to register must declare convictions relating to metal theft as well as other environmental offences. This will help tackle metal theft as persons who have committed offences relating to metal theft or the handling of stolen metal will be refused registration as a waste carrier therefore reducing the possible negative impact.

Description of options considered (including do nothing);

Option 0 - Do nothing: (a) Retain the current requirement for Waste Transfer Notes; (b) not make any amendments in respect of waste carriers demonstrating their authorisation to transport controlled waste; (c) and not include the additional offences that are connected to metal theft that must be declared when registering as a waste carrier, broker or dealer.

As part of the Red Tape Challenge we have committed to look at providing businesses with an alternative to WTNs, however we will retain the option of doing nothing. We are seeking to amend the unintentional omission from the 2011 Regulations regarding waste carriers demonstrating their authority to transport waste, however we will retain the option of doing nothing. We are seeking to include the additional offences relating to metal theft that must be declared when registering as a waste carrier, broker or dealer, however we will retain the right to do nothing.

Option 1 – (a) Remove references to ‘transfer notes’ in Regulation 35 of the 2011 Regulations and replace with ‘waste information’; (b) Amend the 2011 Regulations to include how a person can demonstrate their authority to carry waste when evidence is not immediately available; (c) Amend regulation 29(b) of the 2011 Regulations to include the relevant offences that are connected to metal theft.

This is the preferred option as this will provide greater flexibility around WTNs to the transferor and transferees of controlled waste to meet their legal Duty of Care obligations and is supported by

business. As this is a permissive change businesses may still use WTNs if they see no benefit to using alternative documentation. This will only apply to businesses involved in the estimated 20% of transfers not handled through EDoC. This option also sets out how waste carriers can comply with demonstrating their authority to carry waste when required to do so, therefore clearing up possible confusion resulting from the unintentional repeal of the previous regulations. In addition, this option will help to tackle metal theft by restricting persons convicted of offences relating to metal theft from registering as a waste carrier, dealer or broker.

Monetised and non-monetised costs and benefits of each option (including administrative burden);

Option 0 – Do nothing

(a) Waste Transfer Notes

There were changes to the regulations in 2011 (The Waste (England and Wales) Regulations 2011) that enabled the WTN to be in non-paper form in the knowledge that the Environment Agency (EA) was developing and electronic Duty of Care (EDoC) system for waste transfer notes under an EU Life Plus funded project. The project is managed by the Environment Agency in partnership with other organisations and has industry-wide support.

EDoC is due to be introduced from January 2014 and will allow for the electronic recording of WTNs. EDoC is expected to reduce much of the administrative burden currently associated with WTNs by delivering an online waste tracking system to replace the present paper-based WTN system. Estimates of the savings are based on information provided by businesses and the Environment Agency. Taking into account the savings from reduced costs of creation, storage and retrieval of a WTN, it is estimated that EDoC will save businesses £0.68 in the current estimated costs of hard copy WTNs. This means an expected cost per WTN of £0.54 using 2010 prices. More than 50% of this saving comes from the storage and retrieval of WTNs as shown in Table 1 overleaf.

Table 1: Estimated saving from EDoC (2010 prices)

Costs per WTN	Current WTN system	Edoc	Savings
Creation	£0.55	£0.50	£0.05
Storage	£0.43	£0.00	£0.43
Retrieval	£0.24	£0.04	£0.20
Total	£1.22	£0.54	£0.68

Source: EA

Although EDoC is voluntary, the Environment Agency estimates take up by businesses will cover 80% of waste transfers with targeted communication and other publicity campaigns. The significant cost savings to businesses are expected to be the main driver of this take up rate. There will be transition costs of switching from paper based documentation to EDoC, but these costs of familiarisation with the portal and training of staff are expected to be low and are not expected to be undertaken if the potential savings are not expected to be realised. The Environment Agency is creating a large document management system that can easily be accessed via a web portal. Applications will be provided allowing companies to integrate EDoC directly with their existing waste management systems. Any UK company involved in the production, collection, transfer or disposal of waste will be able to use EDoC.

The benefits to business of EDoC are substantial. Scaling up the costs savings to 2013 using the GDP deflator gives £0.72 of savings per WTN. Assuming the number of WTN is unchanged (the total amount of waste and waste transactions can vary over time, but we do not have sufficient information to make an assumption about the number of WTNs required), there will be saving for 80% of the total number of WTNs or 18.8m. This could provide overall savings of up to £13.6m to businesses. These saving are expected to be fully realised from 2015. There are costs to government and the Environment Agency of developing and maintaining the system. There are support and maintenance costs and this is expected to be £300,000-£400,000. The estimated net benefit of the EDoC system assuming full take up and cost savings is £13.2m. A lower rate of take up would reduce this estimate.

There are additional benefits to take up of the EDoC system. According to the CBI, there is a lack of good quality data for commercial and industrial waste, which means it is difficult to identify opportunities for recycling and recovery. The EDoC system would fill a major gap in knowledge within the waste industry, providing a platform for the production of a real-time, accurate, benchmarking baseline of waste together with in-depth reporting of information on the UK's waste data such as disposal and treatment methods and waste streams.

EDoC is out of scope of any proposed legislative changes and is happening irrespective of this consultation and is therefore part of the counterfactual for this proposal. The counterfactual therefore assumes that 80% of WTNs are through EDoC and costs £0.57 (£0.54 inflated to 2013 prices) per WTN. It is further assumed that those businesses that do not take up EDoC are more likely to be smaller businesses, and will continue to incur the costs of full paper documentation for a WTN at a cost of £1.29 (GDP deflator applied to cost of £1.22 in 2010).The number of WTNs is assumed to remain unchanged at 23.5m as there is currently no evidence of any change since 2010. Although the total amount of waste arisings may vary over time, WTNs are expected to be related to the number of transactions which is less likely to be affected by overall changes in waste arisings. The total cost of WTNs is therefore £16.8m as shown in Table 2:

Table 2: Baseline costs for WTNs after 80% take up of EDoC

	Number of waste transactions requiring a WTN m	Cost per WTN/EDoC (2013 prices) £	Total £m
EDoC	18.8	0.57	10.8
WTN	4.7	1.29	6.1
Total	23.5		16.8

Source: EA

(b) Waste carrier demonstration of authorisation to transport controlled waste

There is no current legislation that stipulates how waste carriers can comply with the requirement to provide evidence of their authority to transport controlled waste when required to do so by a regulator and they do not have their original certificate with them.

This takes the assumption that every registered waste carrier would need to carry their certificate of authority with them at all times when operational to avoid possible penalties if required to show their authority by the relevant regulator. This also assumes that only the original certificate of authorisation is acceptable to demonstrate your authority when required. In some circumstances, businesses

registered as waste carriers will utilise a number of operational vehicles at one time under the same registration. This puts into practice that only one vehicle can carry the original authorisation at any one time therefore opening the other vehicles up to possible penalties.

The option of 'do nothing' restricts registered waste carriers from utilising more than one vehicle at any one time.

As the Environment Agency is currently taking a light touch approach around this legislation it is not possible to place a cost on it. There has been anecdotal evidence received, although nothing concrete, that some local authorities have stopped waste carriers who have not been carrying their certificate of authorisation and issued fixed penalty notices.

(c) Waste carrier, broker and dealer registration – relevant convictions

The Scrap Metal Dealers Act 2013 places restrictions on those who have been convicted of offences relating to metal theft and handling stolen metal from becoming licensed as scrap metal dealers. Persons who are unable to become licensed as scrap metal dealers may still register as waste carriers, brokers or dealers regardless of whether they have committed offences relating to metal theft.

If persons holding a scrap metal dealers licence and a waste carriers registration are convicted of offences relating to metal theft they may have their scrap metal dealers licence revoked but may continue to operate as a waste carrier under their registration.

This option may have a possible negative environmental impact associated as persons previously convicted of scrap metal theft offences will have the opportunity to become waste carriers and continue to work with scrap metal.

As this option is currently in place it is not possible to place a cost on retaining it.

Option 1:

(a) Remove references to 'transfer notes' in Regulation 35 of the 2011 Regulations and replace with 'waste information'.

There is no prescribed format for the transfer note and it can be in electronic form, so there is already some flexibility as to how the information can be provided. An example of a WTN is provided in a Code of Practice on how to comply with the Duty of Care.

This policy proposal offers greater flexibility around WTNs as it will clarify that there will is more than one way of complying with the Duty of Care by allowing businesses to use alternative forms of documentation as evidence to record the required information. However, there may be some upfront cost to businesses when adapting their existing system to incorporate these other forms of documentation.

During the consultation, we will request further information on using alternative documents and request associated costs savings and upfront costs of any change.

We have carried out informal research with stakeholders to ascertain if there will be any potential savings with this proposal. Our discussions with stakeholders indicate potential savings are unclear and suggest that a relatively small number of businesses will benefit from the proposed changes. The Federation of Small Businesses and Department of Business, Innovation and Skills have indicated their support for this option as, although it may not offer identified savings in terms of cost, the greater flexibility it offers businesses could result in savings that have not yet been identified.

This option is a permissive change, and as such businesses will not be required to stop using WTNs if they do not feel there is a benefit to do so. We will be using this consultation to invite views on the type of alternative documentation that could be provided and the associated cost savings.

As part of the consultation process we will also invite businesses to provide suggestions for possible revisions to the written description of waste that is currently required on WTNs. We may be limited as to the extent of changes we can implement as many of the existing requirements flow from our obligations under the revised Waste Framework Directive.

(b) Amend the 2011 Regulations to include how a person can demonstrate their authority to carry waste when not done immediately; and that copy of registration certificates are acceptable proof of registration

The 2011 Regulations do not stipulate how a waste carrier is required to provide evidence of their authorisation to carry controlled waste if required to do so by a regulator and they do not have their original certificate with them. The regulations also do not confirm whether an authorised copy of the original authorisation certificate is acceptable.

The policy proposed will reinstate the unintentional repeal of the relent parts of the Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991 which will allow a waste carrier to:

- produce their authorisation or send it to the principal office of the regulation authority for the area in which they are stopped within 5 working days after the date they were required to produce it; and

- establish that a copy of a waste carrier's certificate of registration as a carrier is acceptable to act as the authority for transporting controlled waste.

The EA offer authorised copies of registration certificates for an additional £5 fee. This policy will propose to reinstate that waste carriers are able to use these copies as a way of demonstrating authorisation to transport controlled waste.

The EA is currently taking a light touch approach to this legislation. This option will help to bring an explicit understanding to this legislation.

(c) Amend regulation 29(b) of the 2011 Regulations to include the relevant offences that are connected to metal theft as set out in the Scrap Metal Dealers Act 2013.

The policy proposed will help align offences taken into consideration when applying to register as a waste carrier, broker or dealer or applying for a licence as a scrap metal dealer.

It is important that persons who have been refused a scrap metal dealers licence by a local authority because they have been convicted of a relevant offence are not able to register as a waste carrier, broker or dealer without those same offences being taken into consideration as this would allow a possible loophole in the waste system. This policy will stop the ability for persons convicted of offences related to metal theft and the handling of stolen metal to continue this practice under registration as a waste carrier, broker or dealer. Persons, who are licensed as a scrap metal dealer and registered as a waste carrier, if convicted of offences relating to metal theft, may then have their scrap metal dealers licence or waste carrier registration revoked. However, it does not mean that the EA will automatically refuse a convicted person from registering as a carrier. However, the convictions will be taken into consideration. This is an important policy in the government's fight against metal theft.

This option will affect any persons with convictions relating to metal theft as they may no longer be allowed to register as waste carriers, brokers or dealers. The EA have already altered their list of offences to take into account when registering waste carriers, brokers or dealers.

Costs and Benefits

For proposal (a) it is expected that businesses involved in the 20% of transfers that are not handled through EDoC will take advantage of this permissive change if there are benefits to doing so. This change is expected to deliver benefits to businesses but there is currently insufficient information to monetise any expected benefits from the increased flexibility from the proposal for WTNs. The baseline already takes into account the substantial savings to the businesses involved in the other 80% transfers handled through EDoC. Information from the consultation will be used to estimate the number of businesses affected and the expected benefits from alternative forms of documentation. There may be transition costs that are incurred but these are expected to be more than offset by any benefits of the increased flexibility.

Proposals (b) and (c) are not expected to incur additional costs to legitimate businesses.

Risks

There is a risk that by using alternative documentation the required information under the 'written description' of waste may not be fully documented. This would mean both the transferor and transferee of the waste are not in compliance with their Waste Duty of Care and could be liable for financial penalties.

Summary of all proposals

Option 1 is the preferred option. This replaces references to 'transfer notes' in Regulation 35 of the 2011 Regulations with 'waste information'. This option provides greater flexibility for businesses to meet their Waste Duty of Care requirements and has the support of BIS/ the Federation of Small Businesses (FSB).

It is difficult to judge any impacts at this stage as we are unsure how many businesses will take up this option. Consultation from the FSB indicates the greater flexibility around WTNs will provide a positive impact to business.

With this in mind we are unable to calculate the EANCB for option 1. Our informal discussions with stakeholders have been unable to ascertain the level of cost saving for this option over the current practice. It has not been possible to establish the true potential savings of option 1 despite an understanding of the current cost of filling in a WTN. This consultation will be used to invite views on

the true cost of option 1 and we will seek to establish the value of the reduction in EANCB after it has closed.

Furthermore, this option will clarify how waste carriers are able to demonstrate their authority to carry waste when evidence is not immediately available as well as confirming that authorised copies of the original certificate are acceptable. This will have a positive impact on waste carriers who are unable to carry their certificate of authorisation with them as well as businesses that use multiple vehicles and therefore are reliant on copies of authorisation certificates.

This option will also allow the relevant regulators to take further convictions relating to metal theft and handling of stolen metal into account when registering persons as waste carriers, brokers or dealers. This will impact all persons convicted of offences relating to metal theft who are seeking to register as a waste carrier, broker or dealer as they may no longer be able to do so.

Consultation Questions

The following questions will be asked to consultees as part of the consultation document:

- **1a) please state whether clarifying in regulation 35 of the Waste (England and Wales) Regulations 2011 that the written description of waste can be recorded on documentation other than a WTN will provide any benefits and why?**
  If so please –
- **1b) provide any additional benefits not stated in the consultation where alternative documentation will help businesses comply with their Waste Duty of Care?**
- **1c) please provide estimated cost savings from the use of alternative documentation to record the written description of waste. This additional information will help establish additional monetary benefits or costs for this proposed amendment.**
- **Question 2) what are your views on the current information currently required to be recorded under regulation 35(2) of the Waste (England and Wales) Regulations 2011 and how helpful or necessary is this information to adequately meet the waste Duty of Care? Please provide specific examples of where changes may be made.**
- **Question 3) can you provide any reasons why reinstating the provisions regarding how a waste carrier presents their authority to carry waste may have a negative effect?**
- **Question 4) please give your views on the proposed additional relevant offences being taken into consideration when the Agencies exercise their power to refuse registration of a waste carrier, broker or dealer or revoke an existing registration?**

One in Two Out

Option 1 is in scope of One In Two Out and is classed as an out as the amendment around WTNs stems from the Red Tape Challenge and is deregulatory.

Option 1 gives businesses greater flexibility and makes it easier to comply with their waste Duty of Care responsibility. Currently there is no option but to fill in a Waste Transfer Note for every movement of waste. Option 1 gives them the flexibility to use alternative, existing documentation relieving some of the administrative burden.

The amendments concerning demonstrating authorisation to transfer waste and including the including relevant offences around metal theft have been classed as trivial by the Cabinet Office.

Implementation review

The proposals will be reviewed in light of this consultation.

Annex A –The proposed regulations

STATUTORY INSTRUMENTS

2014 No.

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

The Waste (England and Wales) (Amendment) Regulations 2014

Made - - - -	***
Laid before Parliament	***
Laid before the National Assembly for Wales	***
Coming into force in accordance with regulation 1(2)	

The Secretary of State is designated(**1**) for the purposes of the European Communities Act 1972(**2**) in relation to the environment. The Welsh Ministers are designated(**3**) for the purposes of that Act in relation to the prevention, reduction and management of waste.

The Secretary of State in relation to England, and the Welsh Ministers, in relation to Wales, make these Regulations in exercise of the powers conferred by sections 5(3)(b) and (4)(b) and 8 of the Control of Pollution (Amendment) Act 1989(**4**) and section 2(2) of the European Communities Act 1972.

Title, commencement and interpretation

—a) These Regulations may be cited as the Waste (England and Wales) (Amendment) Regulations 2014.

These Regulations come into force on xx February 2014.

In these Regulations, “the Waste Regulations” means the Waste (England and Wales) Regulations 2011(**5**).

Amendment of the Waste (England and Wales) Regulations 2011

The Waste Regulations are amended in accordance with regulations 3 to 5.

(**1**) S.I. 2008/301.
(**2**) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 c. 7.
(**3**) 2010/1552.
(**4**) 1989 c.14.
(**5**) 2011/988 to which there are amendments not relevant to this instrument.

Amendment of regulation 29 (procedure for registration)

—b) Regulation 29 of the Waste Regulations is amended as follows—

for paragraph (5)(b), substitute—

"(b) the applicant or another relevant person has been convicted of a relevant offence." ;

after paragraph (5), insert—

"(5A) For the purposes of paragraph (5)(b), a "relevant offence" means an offence under—

(a) the Scrap Metal Dealers Act 1964(**6**),

(b) section 1, 8, 9, 10, 11, 17, 18, 22 or 25 of the Theft Act 1968(**7**), where the specific offence concerned relates to scrap metal, or is an environment-related offence,

(c) section 170 or 170B of the Customs and Excise Management Act 1979(**8**), where the specific offence concerned relates to scrap metal,

(d) section 9 of the Food and Environment Protection Act 1985(**9**),

(e) section 1, 5 or 7 of the Control of Pollution (Amendment) Act 1989(**10**),

(f) section 33, 34 or 34B of the Environmental Protection Act 1990(**11**),

(g) section 85, 202 or 206 of the Water Resources Act 1991(**12**),

(h) the Transfrontier Shipment of Waste Regulations 1994(**13**),

(i) section 110 of the Environment Act 1995(**14**),

(j) the Control of Major Accidents and Hazards Regulations 1999(**15**),

(k) the Pollution Prevention and Control (England and Wales) Regulations 2000(**16**),

(l) regulation 17(1) of the Landfill (England and Wales) Regulations 2002(**17**),

(m) section 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002 (**18**),

(n) the Hazardous Waste (England and Wales) Regulations 2005(**19**),

(o) the Hazardous Waste (Wales) Regulations 2005(**20**),

(p) section 1 of the Fraud Act 2006(**21**), where the specific offence concerned relates to scrap metal or is an environment-related offence,

(q) the Waste Electrical and Electronic Equipment Regulations 2006(**22**),

(r) regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007(**23**),

(s) the Producer Responsibility Obligations (Packaging Waste) Regulations 2007(**24**),

(t) the Transfrontier Shipment of Waste Regulations 2007(**25**),

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(**6**) 1964 c.69. This Act is to be repealed by section 19(1)(a) of the Scrap Metal Dealers Act 2013, which has not yet been commenced.
(**7**) 1968 c.60.
(**8**) 1979 c.2. Section 170B was inserted by the Finance (No 2) Act 1992 (c.48), section 3, Schedule 2, paragraph 8.
(**9**) 1985 c.48.
(**10**) 1989 c.14.
(**11**) 1990 c.43. Section 34B was inserted, in relation to England and Wales, by the Clean Neighbourhoods and Environment act 2005 (c.16), section 46.
(**12**) 1991 c.57. Section 85 was repealed by S.I. 2010/675, regulation 107 and Schedule 26, Part 1 paragraph 8(2)(a).
(**13**) S.I. 1994/1137. These Regulations were revoked by S.I. 2007/1711, regulation 60(1)(a) and (2).
(**14**) 1995 c.25.
(**15**) S.I. 1999/743.
(**16**) S.I. 2000/1973. These Regulations were revoked by S.I. 2007/3538, regulation 74(1) and Schedule 22.
(**17**) S.I. 2002/1559. These Regulations were revoked by S.I. 2007/3538, regulation 74(1) and Schedule 22.
(**18**) 2002 c.29.
(**19**) S.I. 2005/894.
(**20**) S.I. 2005/1806.
(**21**) 2006 c.35.
(**22**) S.I. 2006/3289.
(**23**) S.I. 2007/3538. Regulation 38 was revoked by S.I. 2010/675, regulation 108(1) and Schedule 27.
(**24**) S.I. 2007/871.

(u) regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010(**26**),

(v) regulation 42 of these Regulations,

(w) section 46 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012(**27**),

(x) the Scrap Metal Dealers Act 2013(**28**).

(5B) The offences listed in paragraph (5A) include an offence of—

(a) attempting or conspiring to commit any of those offences;

(b) inciting or aiding, abetting, counselling or procuring the commission of any of those offences.

(5C) For the purposes of paragraph (5A)—

"environment-related offence" means an offence which relates to the transportation, shipment or transfer of waste, or to the prevention, minimisation or control of pollution of the air, water or land which may give risk to any harm;

"harm" means—

(a) harm to the health of human beings or other living organisms;

(b) harm to the quality of the environment;

(c) offence to the senses of human beings;

(d) damage to property; or

(e) impairment of, or interference with, amenities or other legitimate uses of the environment.";

after paragraph (6), insert—

"(6A) The appropriate body must, on payment of its reasonable charges, provide any person who has been provided with a certificate of registration under paragraph (6) such copies of the certificate as may requested by that person.

(6B) The appropriate body must ensure that the copies of the certificate are numbered and marked so as to show that they are copies of the certificate and that they have been provided by the appropriate body under this regulation.".

Amendment of regulation 35 (the transfer note)

—c) Regulation 35 of the Waste Regulations is amended as follow—

in the heading for "The transfer note" substitute "Waste information";

in paragraph (2), for "("the transfer note")", substitute "("written information")";

in paragraph (3)—

(i) for "a transfer note", substitute "the written information",

(ii) for "information", substitute "matters".

in paragraphs (4) and (5), in each place where it occurs, for "transfer note" substitute "written information";

in paragraph (6), for "a transfer note" substitute "the written information".

Insertion of new Part 10A (authority to transport controlled waste)

After Part 10 (enforcement) of the Waste Regulations, insert Part 10A as follows—

(**25**) S.I. 2007/1711.
(**26**) S.I. 2010/675.
(**27**) 2012 c.10. Section 146 is to be repealed by section 19(1)(f) of the Scrap Metal Dealers Act 2013, which has not yet been commenced.
(**28**) 2013 c.10.

“PART 10A

Authority to transport controlled waste

Specified requirements under section 5 of the Control of Pollution (Amendment) Act 1989

45A.—(1) Where a person is required to produce authority to transport controlled waste under section 5(2)(a) (power to require production of authority, stop and search etc) of the Control of Pollution (Amendment) Act 1989—

(a) for the purposes of section 5(3)(b) of that Act, the authority is the certificate of registration provided under regulation 29(6) of these Regulations and it includes any copies of the certificate made in accordance with regulation 29(6A) and (6B); and

(b) for the purposes of section 5(4)(b) of that Act, the authority must be produced—

(i) forthwith at the time the requirement is made; or

(ii) at, or sent to, the relevant office no later than 5 working days from the date the request was made.

(2) For the purposes paragraph (1)(b)(ii), the “relevant office” means an office of the appropriate body as may be specified by the authorised officer of a regulation authority or constable at the time the requirement is made.

(3) For the purposes of paragraph (2)—

(a) “authorised officer” has the meaning given in section 9(1B) of Control of Pollution (Amendment) Act 1989;

(b) “regulation authority” has the meaning given in section 9(1) of that Act, as read with section 9(1A) and (1AA).”.

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Waste (England and Wales) Regulations 2011 (S.I. 2011/988). They amend regulation 29(5) of those Regulations by adding a new list of “relevant offences” for the purposes of the remaining provisions in that regulation which apply to the registration of carriers, brokers and dealers of controlled waste. The Regulations insert provisions relating to the production of authority for transporting controlled waste (which is the certificate of registration issued in accordance with regulation 29) where this is required under section 5(2)(a) of the Control of Pollution (Amendment) Act 1989 (c. 14) and relating to the making of copies of certificates of registration. The Regulations amend regulation 35 by replacing the references in that regulation to “a transfer note” with a reference to “written information”.

A full impact assessment of the effect that this instrument will have on business, the voluntary sector and the public sector is available from Waste Regulation and Crime, Department for Environment, Food and Rural Affairs, Area 2B, Nobel House, 17 Smith Square, London, SW1P 3JR and is annexed to the Explanatory Memorandum which is available alongside the instrument on www.legislation.gov.uk.

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

CLA(4)-11-14

CLA388 - Rheoliadau Gwastraff (Cymru a Lloegr) (Diwygio) 2014

Mae'r rheoliadau hyn yn diwygio Rheoliadau Gwastraff (Cymru a Lloegr) 2011 (sy'n trosi'r Gyfarwyddeb Fframwaith Gwastraff ddiwygiedig (Cyfarwyddeb 2008/98/EC)) mewn perthynas â chofrestru cludwyr, broceriaid a gwerthwyr gwastraff a'r ddogfennaeth i'w chwblhau pan gaiff gwastraff ei drosglwyddo.

Nod y rheoliadau yw rhoi mwy o hyblygrwydd i fusnesau o ran y ddogfennaeth a ddefnyddir i ddisgrifio'r gwastraff sy'n cael ei drosglwyddo. Maent hefyd yn diwygio'r rhestr o droseddau perthnasol y mae rheoleiddwyr yn eu hystyried wrth drafod cais i gofrestru cludwr.

Mae Gweinidogion Cymru yn gwneud y rheoliadau hyn ar sail gyfansawdd gyda'r Ysgrifennydd Gwladol ar sail y ffaith yr ystyrir bod dull gweithredu cyson yng Nghymru a Lloegr yn fuddiol i fusnesau yng Nghymru, yn enwedig y rhai sy'n gweithredu ar sail draws-ffiniol.

Gweithdrefn: Negyddol

1. Materion technegol: craffu

Nodwyd y pwyntiau a ganlyn i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn:

1. Gan mai Gorchymyn Cyfansawdd yw hwn, dim ond yn Saesneg y mae wedi'i wneud.

[Rheol Sefydlog 21.2(ix) – nad yw'r offeryn wedi'i wneud yn Gymraeg ac yn Saesneg.]

2. Rhinweddau: craffu

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

Cynghorwyr Cyfreithiol
Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Mawrth 2014

STATUTORY INSTRUMENTS

2014 No. 651

EDUCATION

The Education (Student Loans) (Repayment) (Amendment) Regulations 2014

Made - - - -	*13th March 2014*
Laid before Parliament	*14th March 2014*
Laid before the National Assembly for Wales	*14th March 2014*
Coming into force - -	*6th April 2014*

The Secretary of State for Business, Innovation and Skills makes the following Regulations in exercise of the powers conferred by sections 22 and 42 of the Teaching and Higher Education Act 1998(**a**).

The Welsh Ministers make the following Regulations in exercise of the powers conferred on the Secretary of State by sections 22 and 42 of the Teaching and Higher Education Act 1998, now exercisable by them(**b**).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Education (Student Loans) (Repayment) (Amendment) Regulations 2014 and come into force on 6th April 2014.

(2) Subject to paragraph (3), these Regulations extend to England and Wales only.

(3) Regulations 3 and 5 to 11 extend to all of the United Kingdom in so far as they impose any obligation or confer any power on Her Majesty's Revenue and Customs, an employer or a borrower in relation to repayments under Part 3 or 4 of the Education (Student Loans) (Repayment) Regulations 2009(**c**).

(**a**) 1998 c.30; section 22 was amended by the Learning and Skills Act 2000 (c.21) section 146, the Income Tax (Earnings and Pensions) Act 2003 (c.1) Schedule 6, the Finance Act 2003 (c.14) section 147, the Higher Education Act 2004 (c.8) sections 42, 43 and Schedule 7, the Apprenticeships, Skills, Children and Learning Act 2009 (c.22) section 257 and the Education Act 2011 (c.21) section 76.

(**b**) The functions of the Secretary of State under section 22 of the Teaching and Higher Education Act 1998 as regards Wales were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004, except for those functions under section 22(2)(a), (c), (j) and (k), (3)(e) and (f) and (5). Functions under subsections (2)(a), (c) and (k) are exercisable by the Secretary of State concurrently with the National Assembly for Wales. The section 22 functions which were transferred to, or became exercisable by, the National Assembly for Wales were subsequently transferred to the Welsh Ministers by the Government of Wales Act 2006 (c.32) section 162 and paragraph 30 of Schedule 11. The functions of the Secretary of State under section 42 of the Teaching and Higher Education Act 1998 as regards Wales were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The section 42 functions which were transferred to the National Assembly for Wales were subsequently transferred to the Welsh Ministers by the Government of Wales Act 2006 (c.32) section 162 and paragraph 30 of Schedule 11.

(**c**) S.I. 2009/470, amended by S.I. 2010/661, 2010/1010, 2011/784, 2012/836, 2012/1309 and 2013/607.

Amendment of the Education (Student Loans) (Repayment) Regulations 2009

2. The Education (Student Loans) (Repayment) Regulations 2009 are amended in accordance with regulations 3 to 12.

3. In regulation 23, after paragraph (2)(f) insert—

"(g) such other information about the borrower's financial position as may be required to determine whether the borrower is in receipt of any income."

4. In regulation 29(7)—

(a) in sub-paragraph (b) delete "but before or on 5 April 2016"; and

(b) delete sub-paragraph (c).

5. In regulation 58—

(a) for paragraph (1), substitute—

"(1) Subject to paragraphs (1A) and (2), where an employer has not on or before the 14th day after the end of an income tax period, beginning on or after 6 April 2014, paid an amount which the employer is liable to pay to HMRC under regulation 54 for that period, that amount will carry interest at the rate applicable under section 103 of the Finance Act 2009 for the purposes of section 101 of the Finance Act 2009 from that date until payment.

(1A) Subject to paragraph (2), any amount which an employer is liable to pay to HMRC under regulation 54 and which is outstanding immediately prior to 6 April 2014 will carry interest from the 14th day after the end of the tax year in which it should have been paid to the date of payment at the rate applicable under—

(a) section 178 of the Finance Act 1989 for the purposes of section 86 of the 1970 Act in respect of the period up to and including 5 April 2014; and

(b) sections 101 and 103 of the Finance Act 2009 in respect of the period from 6 April 2014."; and

(b) in paragraph (2) for "year" substitute "period".

6. In regulation 59B—

(a) at the end of paragraph (1) insert "but this is subject to paragraph (1A)"; and

(b) after paragraph (1) insert—

"(1A) But a Real Time Information employer—

(a) which for the tax year 2014-15 meets Conditions A and B, or

(b) which for the tax year 2015-16 meets Conditions A and C,

may instead for that tax year deliver to HMRC the information specified in Schedule 2 in respect of all relevant payments made to an employee in a tax month on or before making the last relevant payment in that month.

(1B) Condition A is that at 5 April 2014 the employer is one to whom HMRC has issued an employer's PAYE reference.

(1C) Condition B is that at 6 April 2014 that Real Time Information employer employs no more than 9 employees.

(1D) Condition C is that at 6 April 2015 that Real Time Information employer employs no more than 9 employees.

(1E) In this regulation "employer's PAYE reference" means the combination of letters, numbers or both used by HMRC to identify an employer for the purposes of the PAYE Regulations and the number which identifies the employer's HMRC office."

7. In regulation 59E—

(a) at the end of paragraph (1) insert—

",

but this is subject to paragraph (2B)";

(b) after paragraph (2A) insert—

"(2B) This regulation does not apply if a Real Time Information employer within paragraph (1) makes a return using an approved method of electronic communications.";

(c) in paragraphs (3) and (6) for "month" substitute "quarter"; and

(d) in paragraph (5) for "period" substitute "quarter".

8. In regulation 59F—

(a) in paragraph (1) for "an employer discovers an error in a return" substitute "there is an inaccuracy in a return, whether careless or deliberate,";

(b) in paragraphs (2), (3) and (7)(a) for "error" substitute "inaccuracy";

(c) for paragraph (4) substitute—

"(4) When the employer becomes aware of an inaccuracy in a return submitted under regulation 59B or 59E, the employer must provide the correct information in the next return for the tax year in question."; and

(d) in paragraph (6)(b) for "discovery of the error" substitute "employer becomes aware of the inaccuracy".

9. In regulation 59G(5), at the end insert "but this paragraph does not apply to a return for the tax year 2014-15 or subsequent tax years".

10. In regulation 63, for paragraph (1), substitute—

"(1) Subject to paragraph (1A), where—

(a) an employer has not paid an amount of repayments to HMRC under regulation 54;

(b) HMRC makes a determination of the amount of such repayments under regulation 62; and

(c) repayments are payable pursuant to that determination,

those repayments will carry interest at the applicable rate under section 103 of the Finance Act 2009 for the purposes of section 101 of the Finance Act 2009 from the 14th day after the end of the income tax period in which they are payable, beginning on or after 6 April 2014, until payment.

(1A) Any repayments under paragraph (1) that are outstanding immediately prior to 6 April 2014 will carry interest from the 14th day after the end of the tax year in which it should have been paid to the date of payment at the applicable rate under—

(a) section 178 of the Finance Act 1989 for the purposes of section 86 of the 1970 Act in respect of the period up to and including 5 April 2014; and

(b) sections 101 and 103 of the Finance Act 2009 in respect of the period from 6 April 2014."

11. In regulation 68—

(a) in paragraph (1), omit "Subject to paragraph (3),"; and

(b) after paragraph (3), insert—

"(4) For tax years commencing on or after 6 April 2014, where the date on which the return is due to be filed is on or after 6 April 2014, where a Real Time Information employer—

(a) carelessly or deliberately makes an incorrect return under regulations 59B or 59E; and

(b) the return contains an inaccuracy which amounts to, or leads to–

(i) an understatement of liability under this Part to make payments to HMRC; or

(ii) false or inflated claim for the recovery of payments made to HMRC under this Part,

penalties as set out in Schedule 24 to the Finance Act 2007 (penalties for error) will apply as they apply in connection with a return for the purposes of the PAYE Regulations."

12. In regulation 76(1A), delete "until and including 6 April 2015".

David Willetts
Minister of State for Universities and Science
13th March 2014 Department for Business, Innovation and Skills

Huw Lewis
Minister for Education and Skills
13th March 2014 One of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Education (Student Loans) (Repayment) Regulations 2009 (S.I. 2009/470) ("the Principal Regulations"). The Principal Regulations govern the repayment of income-contingent student loans paid to students under section 22 of the Teaching and Higher Education Act 1998(c.30).

Regulations 3 to 12 amend the Principal Regulations.

Regulation 3 amends the content which may form part of a information notice which may be served on a borrower.

Regulations 4 and 12 remove the limit to the number of annual increases to repayment threshold and the applicable threshold for student loans which are not post-2012 student loans, by the retail price index, where the final increase would have been for the year 6 April 2015 to 5 April 2016.

Regulations 5 and 10 change the legislative provisions under which interest rates are calculated for amounts which employers have not paid to Her Majesty's Revenue and Customs.

Regulation 6 permits the smallest employers to file returns about all the student loan repayments in a month on or before making the last payment to employees in the tax month, providing that they meet certain conditions.

Regulation 7 extends the time for those employers who are permitted to file on paper (i.e. care and support employers) to file information with Her Majesty's Revenue and Customs from 14 days after the end of the tax month to 14 days after the end of the tax quarter.

Regulation 8 clarifies that regulation 59F (Returns under regulations 59B and 59E: amendments) applies whether the mistake is careless or deliberate.

Regulation 9 ensures there is no penalty awarded under section 98A Taxes Management Act 1970 (c.9) if the final return for 2014-15 is not made by 19th May 2015.

Regulation11 provides for penalties under Schedule 24 to Finance Act 2007 (c.11) where an employer makes an incorrect return and as a result of that return there is an understatement of a student loan or a false claim for repayment from Her Majesty's Revenue and Customs.

A final Impact Assessment covering regulations 5 and 10 of this instrument was published on 14 April 2009. This was produced following a consultation on the harmonisation of interest charged by Her Majesty's Revenue and Customs and is available on the National Archives' website at http://webarchive.nationalarchives.gov.uk/20090606121538/http:/www.hmrc.gov.uk/budget2009/interest-penalties-2410.pdf. It remains an accurate summary of the impacts that apply to regulations 5 and 10 of this instrument.

A Tax Information and Impact Note covering regulations 6 to 9 of this instrument was published on 15 March 2012 alongside the Income Tax (Pay As You Earn) (Amendment) Regulations 2012 (S. I. 2012/822). This was updated as a result of changes to the impacts as a result of the year long Real Time Information pilot and is available on the Her Majesty's Revenue and Customs' website at http://www.hmrc.gov.uk/thelibrary/tiins.htm. It remains an accurate summary of the impacts that apply to regulations 6 to 9 of this instrument.

A Tax Information and Impact Note covering regulation 11 of this instrument was published on 20 March 2013 and is available on the Her Majesty's Revenue and Customs' website at http://www.hmrc.gov.uk/budget2013/tiin-4762.pdf. It remains an accurate summary of the impacts that apply to regulation 11 of this instrument.

An impact assessment has not been produced for the regulations which are not covered by the Tax Information and Impact Notes and the Impact Assessment mentioned above because they have no impact on businesses or civil society organisations. The Explanatory Memorandum is published alongside the instrument on www.legislation.gov.uk.

Explanatory Memorandum to The Education (Student Loans) (Repayment) (Amendment) Regulations 2014

This Explanatory Memorandum has been prepared by the Higher Education Division of the Department for Education and Skills 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 Education (Student Loans) (Repayment) (Amendment) Regulations 2014.

Huw Lewis – Minister for Education and Skills
12 March 2014

1. Description

The Regulations further amend the Education (Student Loans) (Repayment) Regulations 2009 (SI 2009/470). The amendments cover a range of issues, from the confirming that the pre-2012 repayment threshold is to continue to increase annually by RPI for the lifetime of the pre-2012 loan book to technical language amendments.

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

These Regulations amend the Education (Student Loans) (Repayment) Regulations 2009 (SI 2009/470) ("the 2009 Regulations"). The 2009 Regulations were made as composite regulations by the Welsh Ministers (in relation to Wales) and the Secretary of State and they govern repayments of student loans by borrowers who have taken out income-contingent loans for courses which began on or after September 1998. The 2009 Regulations contain provisions (not devolved to the Welsh Ministers) which are made by the Secretary of State in relation to England and Wales which concern the tax system operated by Her Majesty's Revenue and Customs ("HMRC"). Some other provisions are made by the Welsh Ministers in relation to Wales and the Secretary of State in relation to England.

This composite statutory instrument is subject to the negative resolution procedure in the National Assembly for Wales and in the UK Parliament. Given the composite nature of the 2009 Regulations and that no routine Parliamentary processes exist by which to lay bi-lingual regulations before Parliament, these Regulations will be made in English only.

3. Legislative background

The relevant legal powers to make these Regulations are set out in sections 22 and 42 of the Teaching and Higher Education Act 1998.

The functions of the Secretary of State under Section 22 of the Teaching and Higher Education Act 1998 as regards Wales were transferred to the National Assembly for Wales by section 44 of the Higher Education Act 2004, except for those functions section 22(2)(a), (c), (j) and (k), 3(e) and (f) and (5). Functions under sub-sections 22(2)(a), (c) and (k) are exercisable concurrently with the Secretary of State. The functions in sections 22(2)(j), 22(3)(e) and (f) and section 22(5) remain Secretary of State functions. The functions so transferred subsequently became functions of the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006.

This instrument will follow the Negative Resolution procedure.

4. Purpose & intended effect of the legislation

The amendments to the Regulations relate to functions exercisable in respect of Wales in part by the Welsh Ministers and in part by the Secretary of State. A summary of the changes is as follows:

Information notices: The amendment will enable the Welsh Ministers, or student loans company on their behalf , to require from a borrower information as to the borrower's financial position as may be needed to determine if the borrower is in receipt of any income. For example, in a situation where a borrower declares that they are unemployed and unable to repay their student loan.

Pre-2012 loan repayment threshold: The previous Regulations state that the pre-2012 loan repayment threshold will increase annually by the Retail Price Index (RPI) until 2015. The amendments will ensure that the threshold will continue to increase annually by RPI beyond 2015 for the lifetime of the pre-2012 loan book. This is the only provision which the Welsh Ministers have power to make in this current set of amendments.

HMRC amendments: There will be further changes to Real Time Information (RTI), in certain circumstances, inaccuracies by employers and to introduce new penalty provisions for late returns.

RTI aims to reduce administrative burdens for all employers, including small employers (upon whom the current burden of PAYE currently falls disproportionately). The aim is to achieve this by integrating employee payment and reporting to HMRC into a single payroll process. The Regulations keep student loan collection processes in line with the rest of the PAYE system. The changes concern how repayments are reported to HMRC, with no changes to how student loan repayments are collected.

5. Consultation

No formal consultation was undertaken as a result of these technical changes, as all relevant stakeholders were consulted on the changes to the higher education and student finance system for 2012/13 during the consultation exercise completed in February 2011.

These included proposals for the reform of the student loans repayments; the increase of repayment thresholds from £15,000 to £21,000; and the introduction of a variable progressive rate of interest charged depending on income. Technical consultation papers on the following issues were published on the Welsh Government's consultation web page:

- the implementation of the proposed new system of higher education funding and student finance; and

- the proposed system for part time higher education funding – including student finance for 2012/13.

The taxation changes will be publicised by HRMC. The effect of the Regulations were explained to the HMRC Student Loans Consultation Group, which HRMC uses to consult employers, representative bodies and payroll software providers on matters related to the collection of student loan repayments. Extensive guidance on RTI is published on HMRC's website.

6. Regulatory Impact Assessment (RIA)

A RIA was not undertaken in relation to these Regulations as there is no impact on business, charities, or voluntary bodies. There is no impact on statutory duties (sections 77-79 Government of Wales Act 2006 or statutory partners (sections 72-75 GOWA 2006).

Vulnerable borrowers (those with protected characteristics) will not generally be disadvantaged by these policies. There may be a potential issue in relation to the availability of interest- bearing loans for Muslim students. The UK Government will continue to monitor the effect of the Regulations on Muslim students in England and Wales, both in terms of their acceptance of university placements and student loans. The Department for Business, Innovation and Skills (BIS) is considering this issue further and Welsh Government officials will liaise with colleagues in BIS if the need for any change is identified.

All employers, including charities or voluntary bodies will be required to use RTI.

The impact of RTI on the public sector is the same as for any other employer.

Adroddiad drafft y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

CLA(4)-11-14

CLA389 - Rheoliadau Addysg (Benthyciadau i Fyfyrwyr) (Ad-dalu) (Diwygio) 2014.

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Addysg (Benthyciadau i Fyfyrwyr) (Ad-dalu) 2009 (Offeryn Statudol 2009/470) ('y Prif Reoliadau'). Y Prif Reoliadau sy'n llywodraethu ad-dalu benthyciadau i fyfyrwyr sy'n dibynnu ar incwm a gafodd eu talu i fyfyrwyr o dan adran 22 o Ddeddf Addysgu ac Addysg Uwch 1998 (p.30). Mae'r newidiadau a wneir gan y Rheoliadau hyn yn ymwneud â darparu gwybodaeth a gwneud ad-daliadau.

Gweithdrefn: **Negyddol**

1. Materion technegol: craffu

Nodwyd y pwyntiau a ganlyn i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn:

1. Gan mai Gorchymyn Cyfansawdd yw hwn, dim ond yn Saesneg y mae wedi'i wneud.

[Rheol Sefydlog 21.2(ix) – nad yw'r offeryn wedi'i wneud yn Gymraeg ac yn Saesneg.]

2. Craffu ar y Rhinweddau

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

Cynghorwyr Cyfreithiol
Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Mawrth 2014

Eitem 4

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Y BIL DADREOLEIDDIO

Nodyn Cyngor Cyfreithiol

Cyflwyniad

1. Ym mis Gorffennaf 2013, cyhoeddodd Llywodraeth y DU Fil Dadreoleiddio drafft. Cynhaliodd cydbwyllgor o ddau Dŷ'r Senedd waith craffu cyn deddfu ar y Bil drafft a'r polisïau sy'n sail iddo. Cyflwynodd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol dystiolaeth a oedd yn feirniadol iawn o gynnig yng nghymalau 51 a 57(2) y Bil drafft y dylai Gweinidogion y DU drwy orchymyn allu diddymu a dirymu deddfwriaeth nad yw o ddefnydd ymarferol mwyach. Cafodd y feirniadaeth honno gymeradwyaeth frwd gan dystion eraill gerbron y Cyd-bwyllgor ar y Bil Dadreoleiddio Drafft. Yn ei dro, cyhoeddodd y Pwyllgor adroddiad beirniadol iawn, ac mae'r cynnig penodol hwnnw bellach wedi cael ei hepgor o'r Bil fel y'i cyflwynwyd.

2. Cyflwynwyd y Bil yn ffurfiol yn Nhŷ'r Cyffredin ar 23 Ionawr 2014 a chafodd yr Ail Ddarlleniad ar 3 Chwefror. Daeth y cyfnod craffu gan bwyllgor yn Nhŷ'r Cyffredin i ben ar 25 Mawrth. Mae'r Cyfnod Adroddiadau i ddilyn. Fe benderfynwyd y bydd y trafodion o ran y Bil yn parhau yn sesiwn nesaf y Senedd.

Cefndir

3. Mae'r rhagair i'r Bil drafft yn ei ddisgrifio fel y cam diweddaraf yn ymdrech barhaus y Llywodraeth i gael gwared ar fiwrocratiaeth ddiangen sy'n costio miliynau o bunnoedd i fusnesau ym Mhrydain, sy'n llethu gwasanaethau cyhoeddus fel ysgolion ac ysbytai, ac sy'n amharu ar fywydau beunyddiol miliynau o unigolion. Mae'n egluro sut y mae cynnwys y Bil yn lleihau pwysau diangen mewn tri phrif faes:

- Rhyddhau busnesau o fiwrocratiaeth;
- Gwneud bywyd yn haws i unigolion a chymdeithas sifil; a
- Lleihau gofynion biwrocrataidd ar gyrff cyhoeddus.

4. Mae'r Bil fel y'i cyflwynwyd yn cynnwys 69 cymal a 17 Atodlen. Mae'r rhan fwyaf yn ymdrin â chael gwared ar ofynion sy'n gysylltiedig â phynciau penodol, sy'n gysylltiedig i raddau amrywiol â gwahanol rannau'r Deyrnas Unedig. Mewn perthynas â Chymru, mae nifer yn ymwneud â phynciau nas datganolwyd, fel cyfraith cwmnïau, methdaliad a morgludiant rhyngwladol. Mae eraill yn effeithio ar ddeddfwriaeth sy'n gymwys i Loegr yn unig. Mae'r rheini sy'n effeithio ar gyfraith Cymru a Lloegr ynghylch pynciau fel tai a llywodraeth leol yn fwy arwyddocaol. Fodd bynnag, yn y rhan fwyaf o'r achosion, mae'r darpariaethau manwl hynny yn cyfyngu effaith y newidiadau hynny i Loegr, hyd yn oed os gwneir hynny trwy nodi y bydd y ddeddfwriaeth bresennol yn gymwys i Gymru yn unig yn y dyfodol. Gwneir hynny weithiau trwy ailddatganiad.

Y Memorandwm Cydsyniad Deddfwriaethol

5. Cyflwynodd Llywodraeth Cymru femorandwm cydsyniad deddfwriaethol ('y Memorandwm') ar 24 Chwefror mewn perthynas â'r Bil fel y'i cyflwynwyd. Nododd y Memorandwm gyfres o faterion y ceisir caniatâd y Cynulliad Cenedlaethol yn eu cylch am eu bod o fewn ei gymhwysedd deddfwriaethol.

6. Mae cymal 3 ac Atodlen 1 yn gwneud newidiadau mân iawn i'r ddeddfwriaeth sy'n ymwneud â phrentisiaethau yng Nghymru o dan Ran 1 o Ddeddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009.

7. Mae cymal 24 ac Atodlen 8 yn diwygio'r gyfraith mewn perthynas â thwmpathau ffordd. Ni nodir gofynion i gyhoeddi cynigion yn Neddf Priffyrdd 1980 bellach, ond mewn rheoliadau a wneir gan yr 'awdurdod priodol cenedlaethol' (Gweinidogion Cymru mewn perthynas â Chymru).

8. Mae cymal 30 ac Atodlen 11 yn cynnwys nifer o ddarpariaethau sy'n ymwneud ag anifeiliaid, bwyd a'r amgylchedd. Amcan y newid i Ddeddf Anifeiliaid Dinistriol a Fewnforir 1932 yw cael gwared ar y gofyniad i feddianwyr tir gyflwyno adroddiad os gwelant wiwerod llwyd, am eu bod mor gyffredin bellach. Mae'r gofyniad hwnnw mewn Gorchymyn o 1937, a gellid ei ddirymu fel arfer trwy ddibynnu ar yr un pŵer a alluogodd iddo gael ei wneud. Dywedir:

> *22. Unfortunately, it is not possible to simply revoke or amend the 1937 Order in the usual way (i.e. by subsequent statutory instrument) because the enabling power in the 1932 Act (which is also the power under which the 1937 Order would be amended) requires that, in order to exercise the Order making power, the Welsh Ministers (for our purposes) must be satisfied that it is*

desirable to prohibit or control the keeping of grey squirrels and destroy any at large. Given that grey squirrels are now common in the UK, neither the Welsh Ministers nor the UK Government can be so satisfied and consequently, the power in the 1932 Act is no longer available in relation to that species.

Mae'n anodd dilyn rhesymeg y ddadl honno gan mai peth hawdd yw bod yn fodlon bod angen gwneud rhywbeth, ni waeth pa mor anodd y byddai cyflawni'r amcan hwnnw yn ymarferol. Serch hynny, mae'n amlwg y byddai dileu'r gofyniad i gyflwyno adroddiad ynghylch gweld gwiwerod llwyd yn amcan rhesymol ar gyfer y Bil.

9. Mae rhannau dilynol o Atodlen 11 yn dileu swyddogaethau awdurdodau lleol mewn perthynas â pharthau ansawdd aer a pharthau lleihau sŵn yr ystyrir eu bod yn ddiangen.

10. Mae cymal 35 ac Atodlen 12 yn ymwneud â diddymu swydd Prif Weithredwr Ariannu Sgiliau yn Lloegr a throsglwyddo swyddogaethau i'r Ysgrifennydd Gwladol. Mae diwygiadau yn gwneud mân newidiadau canlyniadol i bŵer i ddarparu gwasanaethau yng Nghymru yn unig gyda chydsyniad Gweinidogion Cymru.

11. Bwriad cymal 36 ac Atodlen 13 yw lleihau'r baich ar sefydliadau addysg bellach a gynhelir gan awdurdod lleol. Gan nad oes sefydliadau o'r fath yng Nghymru, ni fydd y newidiadau hyn yn effeithio ar Gymru yn ymarferol.

12. Mae cymal 57 ac Atodlen 16 yn diddymu dyletswyddau ynghylch ymgynghori neu gyfranogi. Mae'r mwyafrif yn ymwneud â Lloegr yn unig. Mae Rhan 2 o Atodlen 16 yn nodi dwy ddarpariaeth sy'n effeithio ar Gymru a Lloegr. Mae'r cyntaf yn ymwneud â darparu carthffosydd o dan Ddeddf Diwydiant Dŵr 1991, ac ni chyfeirir ati yn y Memorandwm. Roedd yn destun datganiad gan y Gweinidog Cyfoeth Naturiol a Bwyd ar 11 Chwefror 2014, sydd i'w weld yma - http://www.assemblywales.org/cy/bus-home/bus-business-fourth-assembly-laid-docs.htm?act=dis&id=253655&ds=2/2014

Mae'r ail yn ymwneud â chychwyn y trefniadau ar gyfer Ardaloedd Gwella Busnes, ac mae'r memorandwm cydsyniad deddfwriaethol yn rhoi esboniad helaeth.

13. Mae cymal 60 ac Atodlen 17 yn cyfeirio at ddeddfwriaeth nad yw o ddefnydd ymarferol mwyach. Er nad yw'r pŵer i wneud gorchmynion a oedd yn y Bil drafft bellach yn y Bil fel y'i cyflwynwyd, mae rhestr o'r diddymiadau penodol yn y Bil o hyd. Ceir esboniad manwl o'r rhain ym mharagraffau 72 i 118 o'r memorandwm cydsyniad deddfwriaethol, ac er bod lle i gwestiynu cynnwys y cyfeiriad at gymhwysedd mewn perthynas â datblygu economaidd mewn rhai achosion, mae'r

darpariaethau sy'n cael eu diddymu yn amlwg yn dod o fewn cymhwysedd y Cynulliad. Mae'n bosibl y bydd gan y Pwyllgor ddiddordeb arbennig yn y troseddau anacronstig yn Neddf Cymalau Heddlu Tref 1847 a fydd yn cael eu diddymu. Maent yn cynnwys hedfan barcutiaid a churo carpedi!

Materion na chyfeirir atynt yn y memorandwm cydsyniad deddfwriaethol

14. Mae cymal 52 y Bil yn diddymu adran 4(10) o Ddeddf Safonau Gofal 2000, a ychwanegwyd at adran 4 o Ddeddf 2000 gan adran 4 o Ddeddf Plant a Phobl Ifanc 2008. Nid yw'r ddarpariaeth honno wedi cael ei chychwyn mewn perthynas â Chymru, ond mae ar 'Lyfr Statud Cymru' o hyd. Ni chyfeirir ati yn y memorandwm cydsyniad deddfwriaethol, ac mae Memorandwm Esboniadol y Bil yn dweud mai perthnasol i Loegr yn unig ydyw. Serch hynny, dylai diddymu darpariaeth sy'n rhan o gyfraith Cymru ac o fewn cymhwysedd y Cynulliad o ran Lles Cymdeithasol gael ei gynnwys mewn memorandwm cydsyniad deddfwriaethol. Byddai'n ddefnyddiol pe bai'r Llywodraeth yn egluro pam nad yw'r ddarpariaeth hon wedi cael ei chynnwys yn y Memorandwm.

15. Mae darpariaethau o natur fwy cyffredinol y cyfeirir atynt ym mharagraffau 16, 17 ac 21 hefyd yn absennol o'r Memorandwm. Dichon fod y rhain yn destun trafodaethau cyfredol rhwng Llywodraeth Cymru a Llywodraeth y DU, ond os ydynt yn aros yn y Bil ar ffurf sy'n debyg mewn unrhyw ffordd i'w ffurf bresennol, gall y Pwyllgor ystyried y bydd rhaid iddynt fod yn destun memorandwm cydsyniad deddfwriaethol pellach.

Pŵer i nodi'n glir ddyddiadau a ddisgrifir mewn deddfwriaeth

16. Mae cymal 58 yn cynnwys pŵer i Weinidog y Goron, drwy orchymyn, ddileu cyfeiriad mewn deddfwriaeth at gychwyn darpariaeth a rhoi yn ei le gyfeiriad at yr union ddyddiad. Mae darpariaethau sydd o fewn cymhwysedd Senedd yr Alban a Chynulliad Gogledd Iwerddon yn cael eu heithrio'n benodol. Nid oedd cyfeiriad at Gymru pan gafodd ei chyflwyno. Nid oes unrhyw gyfeiriad at y cymal hwn yn y Memorandwm, er y bydd yn effeithio ar ddeddfwriaeth o fewn cymhwysedd y Cynulliad. Mae paragraff 269 o Femorandwm Esboniadol y Bil yn nodi bod trafodaethau ynghylch datganoli yn parhau â phob un o'r gweinyddiaethau datganoledig.

17. Ar 18 Mawrth, cytunodd y Pwyllgor Bil Cyhoeddus welliant y Llywodraeth i'r perwyl na all gorchymyn o dan yr adran hon ddiwygio deddfwriaeth a wneir gan Weinidogion Cymru. Gan fod deddfwriaeth at ddibenion y pŵer hwn yn cael ei diffinio fel Deddf [Seneddol] neu is-ddeddfwriaeth, ni fyddai'r pŵer wedi bod yn berthnasol i Ddeddfau neu Fesurau'r Cynulliad beth bynnag. Bydd y pŵer, serch hynny, yn berthnasol i Ddeddfau Seneddol o fewn cymhwysedd deddfwriaethol y Cynulliad.

Gweithredu swyddogaethau rheoleiddio

18. Er nad yw'n fater sydd o fewn cymhwysedd deddfwriaethol y Cynulliad, fel yr eglurir isod, mae'r darpariaethau hyn at ddiben sydd o fewn y cymhwysedd hwnnw, sef 'datblygu economaidd', sy'n un o'r pynciau yn Atodlen 7 i Ddeddf Llywodraeth Cymru 2006. Felly, mae'n dod o dan y prawf yn Rheol Sefydlog 29.1 yn yr un modd ag y cafodd y darpariaethau ar gyfer Banc Buddsoddi Gwyrdd yn y Bil Menter a Diwygio Rheoleiddio eu hystyried gan y Cynulliad am eu bod at ddibenion sy'n ymwneud â'r amgylchedd.

19. Mae cymal 61(1) yn darparu bod yn rhaid i'r person sy'n gweithredu swyddogaeth reoleiddio y mae'r adran hon yn gymwys iddi gadw mewn cof ddymunoldeb hyrwyddo twf economaidd wrth weithredu'r swyddogaeth honno.

20. Byddai Gweinidog y Goron, drwy orchymyn, yn gallu pennu'r swyddogaethau rheoleiddio y byddai cymal 61 yn gymwys iddynt. Ni chaiff gorchymyn o'r fath bennu swyddogaeth reoleiddio i'r graddau y mae'n arferadwy yng Nghymru os bydd, neu i'r graddau y bydd, swyddogaeth yn ymwneud â materion datganoledig. Mae mater datganoledig yn golygu mater a ddaw o fewn cymhwysedd y Cynulliad Cenedlaethol. Felly, ni fyddai'n gymwys, er enghraifft, i gael ei reoleiddio gan Gomisiynydd y Gymraeg mewn perthynas â'r iaith Gymraeg, ond byddai'n gymwys i'r broses o reoleiddio darlledu yng Nghymru gan Ofcom.

Darpariaethau cyffredinol

21. Byddai cymal 65(1) yn rhoi'r pŵer i'r Ysgrifennydd Gwladol wneud gorchymyn i wneud darpariaeth sydd, yn ei farn ef, yn briodol yn sgîl y Ddeddf. Gall hynny gynnwys darpariaeth drosiannol, dros dro neu arbedol a gall ddiwygio, diddymu, dirymu neu addasu darpariaethau deddfwriaethol, gan gynnwys y rheini a wnaed

gan y Cynulliad Cenedlaethol a sefydliadau datganoledig ym mhob rhan o'r Deyrnas Unedig. Er enghraifft, pe bai Deddf Cynulliad yn cyfeirio at ddeddfwriaeth a fyddai'n cael ei diddymu gan y Bil, gellid dileu'r cyfeiriad hwnnw. Yn y modd arferol, byddai gwelliannau i ddeddfwriaeth sylfaenol yn ddarostyngedig i'r weithdrefn gadarnhaol yn San Steffan; byddai newidiadau i is-ddeddfwriaeth yn ddarostyngedig i'r weithdrefn negyddol. Mae'r pŵer i wneud newidiadau o'r fath i ddeddfwriaeth Gymreig yn anochel yn dod â'r pŵer hwn o dan broses y memorandwm cydsyniad deddfwriaethol.

Ôl-nodyn

22. Cynhaliwyd sesiwn olaf y Cyfnod Pwyllgora yn Nhŷ'r Cyffredin ddydd Mawrth 25 Mawrth. Mae'r gwelliannau a dderbyniwyd yn cynnwys gwelliannau gan y Llywodraeth mewn perthynas â:

- Daliadau amaethyddol;
- Tacsis a Cherbydau Hurio Preifat;
- Adeiladu yn Lloegr;
- Helmedau diogelwch: eithrio Siciaid;
- Trwyddedau teledu

23. Bydd angen memorandwm cydsyniad deddfwriaethol pellach ar gyfer y gwelliannau hynny sy'n dod o dan y prawf yn Rheol Sefydlog 29.1.

Gwasanaethau Cyfreithiol

Cynulliad Cenedlaethol Cymru

Mawrth 2014

MEMORANDWM CYDSYNIAD DEDDFWRIAETHOL

BIL DADREOLEIDDIO

1. Gosodir y Memorandwm Cydsyniad Deddfwriaethol hwn o dan Reol Sefydlog 29.2. Yn ôl Rheol Sefydlog 29, rhaid gosod Memorandwm Cydsyniad Deddfwriaethol a rhaid cyflwyno Cynnig Cydsyniad Deddfwriaethol gerbron y Cynulliad Cenedlaethol os bydd Bil gan Senedd y DU yn gwneud darpariaeth mewn perthynas â Chymru at bwrpas sy'n dod o fewn cymhwysedd deddfwriaethol y Cynulliad Cenedlaethol neu sy'n newid y cymhwysedd hwnnw.

2. Cyflwynwyd y Bil Dadreoleiddio (y "Bil") yn Nhŷ'r Cyffredin ar 23 Ionawr 2014. Gellir gweld y Bil yn:

   http://services.parliament.uk/bills/2013-14/deregulation.html

Crynodeb o'r Bil a'i Amcanion Polisi

3. Noddir y Bil gan Swyddfa'r Cabinet. Amcan polisi Llywodraeth y DU ar gyfer y Bil yw dileu neu leihau'r beichiau rheoliadol diangen sy'n rhwystro busnesau, unigolion, gwasanaethau cyhoeddus neu'r trethdalwr neu'n costio arian iddynt.

4. Mae'r Bil yn cynnwys mesurau sy'n ymwneud â meysydd busnes cyffredinol a phenodol, cwmnïau ac ansolfedd, y defnydd o dir, tai, trafnidiaeth, cyfathrebu, yr amgylchedd, addysg a hyfforddiant, adloniant, awdurdodau cyhoeddus a gweinyddu cyfiawnder. Mae'r Bil hefyd yn darparu ar gyfer dyletswydd ar y rhai sy'n cyflawni swyddogaethau rheoliadol a nodwyd i ystyried pa mor ddymunol yw hybu twf economaidd. At hynny, bydd y Bil yn diddymu deddfwriaeth nad yw o ddefnydd ymarferol mwyach.

Darpariaethau yn y Bil y ceisir cydsyniad yn eu cylch

5. Er hwylustod, rhestrir y darpariaethau y ceisir caniatâd yn eu cylch isod yn y drefn y maent yn ymddangos yn y Bil pan y'i cyflwynwyd, wedi'u dilyn gan ddisgrifiad manwl o bob un o'r darpariaethau yn ei thro. Mae cyfeiriadau at rifau cymalau ac atodlenni hefyd fel y maent yn ymddangos yn y Bil pan y'i cyflwynwyd.

Rhestr o'r darpariaethau yn y Bil y ceisir caniatâd y Cynulliad yn eu cylch:

Cymal 3	Atodlen 1	Rhan 3 (Prentisiaethau: Cymru)
Cymal 24	Atodlen 8	Rhan 2 (twmpathau ffordd)
Cymal 30	Atodlen 11	Rhan 1 (anifeiliaid dinistriol a

		fewnforir)
Cymal 30	Atodlen 11	Rhan 4 (ansawdd aer)
Cymal 30	Atodlen 11	Rhan 5 (parthau lleihau sŵn)
Cymal 35	Atodlen 12	Rhan 1 (diddymu Swydd y Prif Weithredwr Ariannu Sgiliau)
Cymal 36	Atodlen 13	Rhan 1 (mesurau sy'n gymwys i Gymru a Lloegr mewn perthynas ag Addysg Bellach ac Addysg Uwch: lleihau beichiau)
Cymal 57	Atodlen 16	Rhan 2, paragraff 18 (dileu'r gofynion ymgynghori)
Cymal 60	Atodlen 17	Rhan 5, paragraffau 17-21(deddfwriaeth nad yw o ddefnydd ymarferol mwyach – yr amgylchedd)
Cymal 60	Atodlen 17	Rhan 6, paragraffau 22-27(deddfwriaeth nad yw o ddefnydd ymarferol mwyach– anifeiliaid a bwyd)
Cymal 60	Atodlen 17	Rhan 8, paragraff 29 (deddfwriaeth nad yw o ddefnydd ymarferol mwyach– cyfraith droseddol)

Cymal 3 – Prentisiaethau: Symleiddio

Atodlen 1 – Rhan 3- Prentisiaethau: Cymru

6. Mae Cymal 3(4) yn cyflwyno Rhan 3 (paragraffau 21 i 24) o Atodlen 1, sy'n cynnwys mân ddiwygiadau i'r darpariaethau ynglŷn â phrentisiaethau yng Nghymru yn Rhan 1 o Ddeddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009 (Deddf 2009).

7. Mae paragraffau 21 i 24 o Atodlen 1 yn diwygio, yn rhannol, adrannau 18 i 20 yn gynwysedig o Ddeddf 2009.

8. Mae adran 18 o Ddeddf 2009 yn rhoi pwerau i Weinidogion Cymru ddynodi unigolyn i gyhoeddi fframweithiau prentisiaeth sy'n ymwneud â sector prentisiaeth penodol. Mae Rhan 3 o Atodlen 1 yn diwygio adran 18 fel y gall Gweinidogion Cymru eu hunain weithredu fel awdurdod cyhoeddi yng Nghymru yn ogystal â meddu ar y pwerau i ddynodi eraill. Mae Rhan 3 o Atodlen 1 hefyd yn gwneud rhai diwygiadau canlyniadol sy'n deillio o'r diwygiadau i adran 18.

9. Mae Cymal 68(4) a (6) yn darparu ar gyfer pwerau Gweinidogion Cymru i wneud gorchmynion sy'n ymwneud â'r darpariaethau ynglŷn â

phrentisiaethau yng Nghymru a nodir yn Atodlen 1, Rhan 3. Mae Cymal 68(4) yn rhoi pŵer i Weinidogion Cymru gychwyn y darpariaethau yn Atodlen 1, Rhan 3 drwy orchymyn a wneir drwy offeryn statudol.

10. Mae Cymal 68(6) yn rhoi pŵer cysylltiedig i Weinidogion Cymru drwy orchymyn a wneir drwy offeryn statudol i wneud y cyfryw ddarpariaeth drosiannol, darfodol neu arbed a ystyriant yn briodol mewn cysylltiad ag Atodlen 1, Rhan 3 yn dod i rym.

11. Gan fod y pwerau hyn i wneud gorchmynion yn ymwneud â chychwyn darpariaethau, ni fydd yr un o weithdrefnau'r Cynlluniad yn gymwys.

12. Ym marn Llywodraeth Cymru, mae'r darpariaethau hyn yn dod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud ag Addysg, hyfforddiant galwedigaethol, cymdeithasol a chorfforol a'r gwasanaeth gyrfaoedd; a hyrwyddo datblygu a chymhwyso gwybodaeth, o dan baragraff 5 o Ran 1, Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

Cymal 24 – Lleihau beichiau sy'n ymwneud â defnyddio ffyrdd a rheilffyrdd

Atodlen 8, Rhan 2 sy'n ymwneud ag adeiladu twmpathau ffordd

13. Mae Cymal 24 o'r Bil yn cyfeirio at Atodlen 8. Mae Rhan 2 o Atodlen 8 yn diwygio adran 90C o Ddeddf Priffyrdd 1980. Ar hyn o bryd mae adran 90C yn ei gwneud yn ofynnol i Weinidogion Cymru neu awdurdod priffyrdd lleol ymgynghori â phrif swyddog yr heddlu ar gyfer yr ardal ac unigolion neu gyrff eraill a ragnodir gan reoliadau a wneir gan Weinidogion Cymru cyn adeiladu twmpathau ffordd. Mae'n rhaid cyhoeddi hysbysiad o unrhyw gynigion mewn un neu ragor o bapurau newydd lleol a'i roi ar y safle a gellir cynnal ymchwiliad lleol er mwyn ystyried unrhyw wrthwynebiadau a gafwyd. Mae'n rhaid i'r weithdrefn i'w dilyn mewn ymchwiliad lleol gydymffurfio â darpariaethau yn adran 250(2) i (5) o Ddeddf Llywodraeth Leol 1972 ond gyda'r cyfryw ddiwygiadau ag a ragnodir gan reoliadau a wneir gan Weinidogion Cymru.

14. Byddai Rhan 2 o Atodlen 8 yn diwygio'r adran uchod fel y câi'r holl ofynion ymgynghori a chyhoeddi, yn ogystal â gweithdrefnau ymchwiliadau lleol, eu nodi mewn rheoliadau i'w gwneud gan Weinidogion Cymru.

15. Mae'r darpariaethau yn cynnwys pwerau i Weinidogion Cymru wneud is-ddeddfwriaeth. Mae'r darpariaethau yn rhoi pŵer i wneud rheoliadau sy'n ymwneud â chyhoeddi manylion cynigion i adeiladu twmpathau ffordd a gweithdrefnau ar gyfer cyflwyno gwrthwynebiadau i'r cyfryw gynigion a gweithdrefnau ar gyfer ymdrin â'r cyfryw wrthwynebiadau. Câi rheoliadau eu llunio o dan y weithdrefn negyddol.

16. Ym marn Llywodraeth Cymru, mae'r darpariaethau hyn yn dod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud â Phriffyrdd a Thrafnidiaeth o dan baragraff 4 o Ran 1, Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

Cymal 30 – Mesurau eraill sy'n ymwneud ag anifeiliaid, bwyd a'r amgylchedd

Atodlen 11 - Rhan 1 – Anifeiliaid Dinistriol a Fewnforir

17. Mae Cymal 30 o'r Bil yn cyflwyno Atodlen 11 (“Mesurau eraill sy'n ymwneud ag anifeiliaid, bwyd a'r amgylchedd”), mae Rhan 1 o Atodlen 11 (“Anifeiliaid dinistriol a fewnforir”) yn diwygio Deddf Anifeiliaid Dinistriol a Fewnforir 1932 a Gorchymyn Gwiwerod Llwyd (Gwahardd Mewnforio a Chadw) 1937 (paragraffau 1 a 2 o Ran 1 o Atodlen 11 i'r Bil).

18. Mae'r diwygiadau arfaethedig yn dileu'r rhwymedigaeth i feddiannydd tir roi gwybod am bresenoldeb gwiwerod llwyd o dan Orchymyn Gwiwerod Llwyd (Gwahardd Mewnforio a Chadw) 1937 (OS 1937/437) ac yn diwygio'r ddeddfwriaeth alluogi, Deddf Anifeiliaid Dinistriol a Fewnforir 1932, fel y bydd yn haws i ddiwygio Gorchymyn 1937 yn y dyfodol.

19. Mae Deddf Anifeiliaid Dinistriol a Fewnforir 1932 yn ei gwneud yn bosibl i reoleiddio'r modd y caiff rhywogaethau penodol o famaliaid anfrodorol, dinistriol eu mewnforio a'u cadw ym Mhrydain Fawr. Mae hefyd yn ei gwneud yn ofynnol i feddianwyr tir roi gwybod am unrhyw rywogaethau penodol a welwyd (fel y gellir dal yr anifeiliaid dan sylw a'u symud ac, felly, gael gwared â'r rhywogaethau o'r gwyllt).

20. I ddechrau dim ond i lygod mwsg roedd Deddf 1932 yn berthnasol, ond mae adran 10 o Ddeddf 1932 yn ei gwneud yn bosibl i Orchymyn gael ei wneud sy'n ymestyn darpariaethau'r Ddeddf honno i rywogaethau mamalaidd anfrodorol eraill. Gwnaed Gorchymyn 1937 yn unol â'r adran honno a chymhwysodd darpariaethau Deddf 1932 at wiwerod llwyd. Effaith Gorchymyn 1937 yw y dylid rhoi gwybod am wiwerod llwyd a welwyd gan feddianwyr tir.

21. Er gwaethaf y mesur hwn a chynllun bownti a gyflwynwyd yn y 1950au (fe'i cyflwynwyd yn 1953 ond rhoddwyd y gorau iddo yn 1958), mae ymdrechion i gael gwared â'r boblogaeth gwiwerod llwyd yn y DU wedi methu ac maent wedi ymsefydlu mor dda ers hynny fel nad yw'n ymarferol cael gwared â hwy mwyach. Felly, nid oes gan rwymedigaeth gyffredinol i roi gwybodaeth am bresenoldeb gwiwerod llwyd unrhyw werth o safbwynt eu rheoli ar hyn o bryd.

22. Yn anffodus, nid yw'n bosibl dirymu na diwygio Gorchymyn 1937 yn y ffordd arferol (h.y. drwy offeryn statudol dilynol) am fod y pŵer galluogi yn Neddf 1932 (sef y pŵer y câi Gorchymyn 1937 ei ddiwygio o dano) yn ei gwneud yn ofynnol i Weinidogion Cymru (at ein dibenion ni), er mwyn

arfer y pŵer i wneud Gorchmynion, fodloni eu hunain ei bod yn ddymunol gwahardd cadw gwiwerod llwyd neu reoli'r modd y cânt eu cadw a dinistrio unrhyw rai sy'n rhydd. Gan fod gwiwerod llwyd bellach yn gyffredin yn y DU ni all Gweinidogion Cymru na Llywodraeth y DU fodloni eu hunain ei bod yn ddymunol gwneud hynny ac, o ganlyniad, nid yw'r pŵer yn Neddf 1932 ar gael mwyach mewn perthynas â'r rhywogaeth honno.

23. Bydd y diwygiadau a gynigir gan baragraffau 1 a 2 o Ran 1 o Atodlen 11 i'r Bil Dadreoleiddio yn dileu'r gofyniad i roi gwybod am bresenoldeb gwiwerod llwyd yng Ngorchymyn 1937 ac yn ei gwneud yn haws i ddiwygio'r Gorchymyn yn y dyfodol drwy ddiwygio Deddf 1932.

24. Mae angen gwahardd cadw a mewnforio gwiwerod llwyd o hyd ac, felly, bydd gweddill Gorchymyn 1937 yn parhau mewn grym. Mae rheolwyr tir yn buddsoddi cryn dipyn o amser ac arian yn y gwaith o reoli gwiwerod llwyd er mwyn diogelu gwiwerod coch a bioamrywiaeth coetir ehangach. Byddai dirymu'r Gorchymyn Gwiwerod Llwyd yn ei gyfanrwydd yn dileu offeryn effeithiol ar gyfer cyfyngu ar ymlediad y rhywogaeth i ardaloedd lle nas ceir ar hyn o bryd neu'n ôl i ardaloedd lle y cafwyd gwared â hwy.

25. Nid yw'r diwygiadau i Ddeddf 1932 a Gorchymyn 1937, ohonynt eu hunain, yn rhoi unrhyw bwerau i Weinidogion Cymru wneud is-ddeddfwriaeth. Fodd bynnag, mae'r diwygiadau i adran 10 o Ddeddf 1932 yn newid pŵer i wneud Gorchymyn sy'n arferadwy gan Weinidogion Cymru mewn perthynas â Chymru. Mae Gorchymyn o dan adran 10 o Ddeddf 1932 yn destun gweithdrefn gadarnhaol (h.y. ni chaiff Gorchymyn o dan yr adran honno unrhyw effaith nes i'r Cynulliad basio cynnig yn ei gymeradwyo (mewn perthynas â Chymru), gweler adran 10(1) o Ddeddf 1932).

26. Ym marn Llywodraeth Cymru, mae'r darpariaethau hyn yn dod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud ag Iechyd a Lles Anifeiliaid o dan baragraff 1 o Ran 1, Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

Atodlen 11 - Rhan 4 – Ansawdd Aer

27. Mae Rhan 4 o Atodlen 11 yn ymwneud ag ‘Ansawdd Aer’. Mae'r darpariaethau yn ymwneud â diddymu ‘Asesiadau Pellach’, y mae'n rhaid i awdurdodau lleol eu cynnal yn sgil datgan Ardal Rheoli Ansawdd Aer (AQMA) fel sy'n ofynnol yn Adran 84, Rhan IV, o Ddeddf yr Amgylchedd 1995.

28. Mae gan awdurdodau lleol ddyletswyddau statudol o ran rheoli ansawdd aer lleol o dan Ran IV o Ddeddf yr Amgylchedd 1995, sy'n ei gwneud yn ofynnol iddynt wneud y canlynol:

a) adolygu ansawdd yr aer ar y pryd ac ansawdd tebygol yr aer yn y dyfodol yn eu hardal awdurdod lleol yn erbyn amcanion a nodir yn Rheoliadau Ansawdd Aer (Cymru) 2000;
b) cynnal asesiad, ynghyd ag adolygiad, er mwyn nodi a yw safonau ac amcanion ansawdd aer yn cael eu cyflawni;
c) lle y rhagamcanir na chaiff safonau ac amcanion ansawdd aer eu cyflawni, datgan bod ardal ansawdd aer lleol yn Ardal Rheoli Ansawdd Aer.

29. Mae adran 84 (1) o Ddeddf yr Amgylchedd yn nodi, ar ôl datgan Ardal Rheoli Ansawdd Aer, fod yn rhaid i'r awdurdod lleol gychwyn asesiad “atodol”. Mae adran 84 (2)(a) yn ei gwneud yn ofynnol i adroddiad gael ei gyhoeddi ar yr asesiad, a elwir yn ‘Asesiad Pellach’. Datgelodd ymgynghoriad ffurfiol ag awdurdodau lleol nad oedd yr Asesiad Pellach yn ddefnyddiol wrth baratoi cynlluniau i wella ansawdd aer am y byddai'r wybodaeth, yn y rhan fwyaf o achosion, yn cael ei chasglu fel rhan o'r asesiad cychwynnol sy'n ei ragflaenu.

30. Cynhaliwyd ymgynghoriad ffurfiol gan Lywodraeth Cymru yn ystod haf 2013. Daeth i'r casgliad bod rheswm dros ddiddymu ‘Asesiadau Pellach’. Trosglwyddwyd y swyddogaethau o dan Adran 84 o Ddeddf yr Amgylchedd 1995, i'r graddau y maent yn arferadwy mewn perthynas â Chymru, o'r Ysgrifennydd Gwladol i Gynulliad Cenedlaethol Cymru, gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999, OS 1999/672, erth. 2, Atodlen 1, ac maent bellach yn arferadwy gan Weinidogion Cymru yn rhinwedd adran 162 a pharagraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006.

31. Nid yw'r ddarpariaeth hon yn cynnwys pwerau i Weinidogion Cymru wneud is-ddeddfwriaeth.

32. Ym marn Llywodraeth Cymru, mae'r darpariaethau hyn yn dod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud â diogelu'r Amgylchedd, gan gynnwys llygredd, niwsans a sylweddau peryglus a phwerau a dyletswyddau awdurdodau lleol o dan baragraff 6 a 12 o Ran 1, Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

Atodlen 11 - Rhan 5 - Parthau Lleihau Sŵn

33. Mae'r darpariaethau hyn yn diddymu adrannau 57, 63 i 67 a 69, ac yn diwygio adran 73, yn Rhan 3 o Ddeddf Rheoli Llygredd 1974, sy'n ymwneud â dyletswydd awdurdodau lleol i arolygu a'r pŵer i sefydlu Parthau Lleihau Sŵn yng Nghymru, Lloegr a'r Alban. Maent hefyd yn diddymu Atodlen 1 i'r Ddeddf Rheoli Llygredd ac yn gwneud newidiadau canlyniadol penodol i ddeddfwriaeth arall.

34. Cyflwynwyd Parthau Lleihau Sŵn er mwyn atal lefelau sŵn amgylcheddol rhag gwaethygu a gostwng lefelau sŵn lle bynnag y bo'n ymarferol. Bydd diddymu a diwygio darpariaethau perthnasol y Ddeddf Rheoli

Llygredd yn diddymu Parthau Lleihau Sŵn sy'n bodoli eisoes ac yn atal rhai newydd rhag cael eu sefydlu.

35. Mae gwaith dadansoddi wedi dangos mai ychydig o ddefnydd a wneir o'r ddeddfwriaeth. Mewn rhai achosion, mae Parthau Lleihau Sŵn wedi'u sefydlu ond nid ydynt yn cael eu gorfodi ac mae eu diddymu drwy'r darpariaethau hyn yn ffordd (sy'n defnyddio adnoddau'n effeithlon) o ddileu'r baich ar awdurdodau lleol sy'n gysylltiedig â dileu eu Parthau Lleihau Sŵn yn unigol.

36. Yng Nghymru, dim ond Cyngor Dinas Casnewydd a Chyngor Dinas Abertawe sydd wedi sefydlu Parthau Lleihau Sŵn. Nid yw'r rhain yn cael eu gorfodi am fod mesurau gorfodi sŵn mwy effeithiol eraill yn cael eu defnyddio.

37. Roedd ymatebion i ymgynghoriad ar y cyd rhwng Adran yr Amgylchedd, Bwyd a Materion Gwledig (DEFRA) a Llywodraeth Cymru a gynhaliwyd gan DEFRA ym mis Ionawr 2013 yn unfrydol o blaid diddymu'r ddeddfwriaeth ac ni nodwyd unrhyw ganlyniadau negyddol annisgwyl.

38. Mae'r darpariaethau hyn ond yn diddymu deddfwriaeth bresennol, nid ydynt yn cynnwys pwerau i Weinidogion Cymru wneud is-ddeddfwriaeth.

39. Ym marn Llywodraeth Cymru, mae'r darpariaethau hyn yn dod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud â diogelu'r amgylchedd, gan gynnwys llygredd a niwsans (paragraff 6), a phwerau a dyletswyddau awdurdodau lleol o dan baragraff 12, o Ran 1 o Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

Cymal 35 – Diddymu swydd y Prif Weithredwr Ariannu Sgiliau

Atodlen 12 — Rhan 1 — Prif ddiwygiadau

40. Mae Cymal 35 yn diddymu swydd y Prif Weithredwr Ariannu Sgiliau ac yn cyflwyno Atodlen 12.

41. Mae paragraff 16 o Atodlen 12 yn diwygio adran 107 o Ddeddf Prentisiaethau, Sgiliau, Plant a Dysgu 2009. Mae'r adran hon yn caniatáu i'r Prif Weithredwr Ariannu Sgiliau ddarparu gwasanaethau (gan gynnwys darparu llety neu reoli llety, neu gaffael nwyddau a gwasanaethau neu helpu i'w caffael) i dderbynnydd a ganiateir. Nodir Gweinidogion Cymru yn adran 107(4)(b) fel derbynnydd a ganiateir. At hynny, mae gan Weinidogion Cymru bŵer i nodi drwy Orchymyn dderbynyddion eraill a ganiateir pan fo'r cyfryw berson yn darparu addysg neu hyfforddiant yng Nghymru (107(4)(g)).

42. Effaith y diwygiadau arfaethedig yw dileu cyfeiriadau at y Prif Weithredwr Ariannu Sgiliau a rhoi cyfeiriadau at yr Ysgrifennydd Gwladol yn eu lle, sy'n golygu mai'r Ysgrifennydd Gwladol yn hytrach na'r Prif Weithredwr

Ariannu Sgiliau sy'n gorfod cael caniatâd Gweinidogion Cymru cyn darparu gwasanaethau yng Nghymru.

43. Mae paragraff 17 yn hepgor adran 108 sy'n galluogi'r Prif Weithredwr i gymryd rhan mewn trefniadau a wneir gan yr Ysgrifennydd Gwladol, Gweinidogion Cymru neu Weinidogion yr Alban o dan adran 2 o Ddeddf Cyflogaeth a Hyfforddiant 1973.

44. Nid yw'r ddarpariaeth hon yn cynnwys pwerau newydd i Weinidogion Cymru wneud is-ddeddfwriaeth.

45. Ym marn Llywodraeth Cymru, mae'r ddarpariaeth hon yn dod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y mae'n ymwneud ag Addysg, hyfforddiant galwedigaethol, cymdeithasol a chorfforol a'r gwasanaeth gyrfaoedd; a hyrwyddo datblygu a chymhwyso gwybodaeth, o dan baragraff 5 o Ran 1, Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

Cymal 36 - y sector addysg bellach a'r sector addysg uwch: lleihau beichiau

Atodlen 13 — Addysg bellach ac addysg uwch: lleihau beichiau

46. Mae Cymal 36 yn cyflwyno Atodlen 13 sy'n darparu ar gyfer lleihau beichiau yn y sector addysg bellach a'r sector addysg uwch.

47. Mae paragraff 1 o Atodlen 13 yn diddymu adran 3 o Ddeddf Addysg Bellach 1985. Mae adran 3 yn rhoi pwerau i'r Ysgrifennydd Gwladol bennu'r gyfradd llog isaf ar gyfer benthyciadau a wneir gan Awdurdod Lleol i Gorfforaethau Addysg Bellach (“AB”) neu Addysg Uwch (”AU”) neu sefydliadau AB neu AU a gynhelir gan awdurdodau lleol. Hefyd, mae gan Weinidogion Cymru bwerau o dan yr adran hon i bennu'r gyfradd llog isaf ar gyfer benthyciadau a wneir gan Awdurdodau Lleol ond nid yw'r pwerau hyn wedi'u defnyddio'n ddiweddar ac nid ystyrir bod eu hangen. Felly, rydym yn fodlon y dylid diddymu adran 3 o Ddeddf 1985.

48. Mae paragraff 2 o Atodlen 13 yn diwygio Deddf Addysg (Rhif 2) 1986, drwy ddiddymu adran 61 ac adran 62 o Ddeddf 1986. Mae adran 61 yn rhoi pŵer i Ysgrifennydd Gwladol Cymru, neu Weinidogion Cymru yng Nghymru, wneud rheoliadau er mwyn cyfyngu ar gyfranogiad llywodraethwyr sy'n fyfyrwyr o fewn corff llywodraethu sefydliadau AB neu AU a gynhelir gan Awdurdodau Lleol. Mae adran 62 yn rhoi pŵer i'r Ysgrifennydd Gwladol, neu Weinidogion Cymru, wneud rheoliadau er mwyn trefnu bod dogfennau a gwybodaeth ragnodedig sy'n ymwneud â chyfarfodydd a thrafodion corff llywodraethu sefydliadau AB neu AU a gynhelir gan Awdurdodau Lleol ar gael i bobl. Ar hyn o bryd, nid oes unrhyw sefydliadau AB nac AU a gynhelir gan Awdurdodau Lleol yng Nghymru. Felly, nid ystyrir bod angen y pwerau yn adrannau 61 a 62 o Ddeddf 1986 yng Nghymru. Felly, rydym yn fodlon y dylid eu diddymu.

49. Mae paragraff 3, is-baragraffau (2) - (4) o Atodlen 13 yn diwygio Deddf Diwygio Addysg 1988. Mae is-baragraff 2 yn diddymu adran 158 o Ddeddf 1988, sy'n rhoi pŵer i'w gwneud yn ofynnol i gyrff llywodraethu sefydliadau AB neu AU a gynhelir gan Awdurdodau Lleol gyflwyno adroddiadau. Mae is-baragraff 3 yn diddymu adran 159 o Ddeddf 1988, sy'n rhoi pwerau i'r Ysgrifennydd Gwladol, neu Weinidogion Cymru, wneud rheoliadau sy'n ei gwneud yn ofynnol i Awdurdodau Lleol roi gwybodaeth am sefydliadau AB neu AU a gynhelir gan Awdurdodau Lleol. Mae is-baragraff 4 yn hepgor adran 219 o Ddeddf 1988, sy'n rhoi pwerau i'r Ysgrifennydd Gwladol, neu Weinidogion Cymru, atal swyddogaethau corff llywodraethu sefydliadau AB neu AU a gynhelir gan Awdurdodau Lleol rhag cael eu cyflawni mewn modd afresymol. Nid yw'r pwerau yn adrannau 158, 159 a 219 o Ddeddf 1988 erioed wedi'u harfer gan Weinidogion Cymru. Felly, mae Llywodraeth Cymru yn fodlon y dylid diddymu'r darpariaethau hyn.

50. Mae paragraff 4 o Atodlen 13 yn diwygio Deddf Addysg Bellach ac Uwch 1992 mewn perthynas â sefydliadau addysg bellach a gynhelir gan awdurdodau lleol; nid oes unrhyw sefydliadau o'r fath yng Nghymru.

51. Mae paragraff 4(2) yn diddymu adrannau 23 i 26 o'r Ddeddf Addysg Bellach ac Uwch, sy'n ymwneud â phwerau a oedd yn ymwneud â'r broses o drosglwyddo darpariaeth AB o sefydliadau a gynhelir gan awdurdodau lleol i gorfforaethau AB a sefydlwyd gan Ddeddf Addysg Bellach ac Uwch 1992.

52. Mae paragraff 4(3) yn diddymu adran 32 a 33 sy'n adrannau dyddiedig o ran amser ac sy'n ymwneud â throsglwyddo eiddo a staff o Awdurdodau Lleol i Sefydliadau Dynodedig.

53. Mae paragraff 4(4) yn hepgor adrannau 34 sy'n ymwneud â phwerau sy'n gysylltiedig â'r broses o drosglwyddo darpariaeth AB o sefydliadau a gynhelir gan awdurdodau lleol i gorfforaethau AB a sefydlwyd gan Ddeddf Addysg Bellach ac Uwch 1992. Ar hyn o bryd, nid oes unrhyw nod polisi i gyflwyno corfforaethau AB a gynhelir gan Awdurdodau Lleol yng Nghymru ac, felly, nid oes unrhyw reswm ymarferol dros barhau â'r darpariaethau hyn.

54. Mae paragraff 4(5) yn cynnwys diwygiadau canlyniadol sy'n deillio o'r diddymiadau a wneir gan baragraff 4 (1) i (4).

55. Nid oes unrhyw sefydliadau AB a gynhelir gan awdurdodau lleol yng Nghymru, ac nid oes unrhyw nod polisi ar hyn o bryd i gyflwyno corfforaethau AB a gynhelir gan awdurdodau lleol yng Nghymru ychwaith. Felly, nid oes unrhyw reswm ymarferol dros gadw'r darpariaethau hyn i Gymru ac, felly, mae Llywodraeth Cymru yn fodlon y dylid eu diddymu.

56. Darpariaethau diddymu yw'r rhain ac, felly, nid ydynt yn cynnwys unrhyw bwerau newydd i Weinidogion Cymru wneud is-ddeddfwriaeth.

57. Ym marn Llywodraeth Cymru, mae'r darpariaethau hyn yn dod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud ag Addysg, hyfforddiant galwedigaethol, cymdeithasol a chorfforol a'r gwasanaeth gyrfaoedd; a hyrwyddo datblygu a chymhwyso gwybodaeth, o dan baragraff 5 o Ran 1, Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

Cymal 57 - Diddymu dyletswyddau sy'n ymwneud ag ymgynghori neu gynnwys

Atodlen 16, Rhan 2 – Mesurau sy'n effeithio ar Gymru a Lloegr

58. Mae Cymal 57 yn cyflwyno Atodlen 16, sy'n ymwneud â dileu gofynion ymgynghori penodol mewn amrywiaeth o ddeddfwriaeth. Mae Rhan 2 yn darparu ar gyfer deddfwriaeth sy'n effeithio ar Gymru a Lloegr.

59. Ceisir caniatâd i ddileu Adran 53(7) o Ddeddf Llywodraeth Leol 2003 sy'n ymwneud â threfniadau Ardal Gwella Busnes. Mae Adran 53(7) yn ei gwneud yn ofynnol i Weinidogion Cymru geisio barn awdurdodau bilio (cynghorau sir a chynghorau bwrdeistref sirol) a thalwyr ardrethi ynglŷn â'r diwrnod y dylai trefniadau Ardal Gwella Busnes ddod i rym yn dilyn apêl yn erbyn feto.

60. Mae trefniant Ardal Gwella Busnes yn bartneriaeth rhwng awdurdod bilio a'r gymuned fusnes leol i ddatblygu prosiectau a gwasanaethau er budd ardal benodol. Mae'r talwyr ardrethi annomestig yn yr ardal yn talu ardoll yn gyfnewid am y manteision a nodir yn nhrefniadau'r Ardal Gwella Busnes, er enghraifft, prosiectau i adfywio'r ardal neu wella diogelwch. Mae'r pwerau sy'n ymwneud â threfniadau Ardal Gwella Busnes i'w cael yn Rhan 4 o Ddeddf Llywodraeth Leol 2003 a Rheoliadau Ardaloedd Gwella Busnes (Cymru) 2005.

61. Mae'n bosibl na ddaw trefniadau Ardal Gwella Busnes i rym nes i'r cynigion gael eu cymeradwyo drwy bleidlais gan y talwyr ardrethi annomestig sy'n agored i dalu'r ardoll.

62. Os bydd y bleidlais yn cymeradwyo'r cynigion, gall yr awdurdod bilio roi feto ar y cynigion o dan amgylchiadau penodol. Mae adran 52 o Ddeddf 2003 yn caniatáu i unrhyw un sydd â hawl i bleidleisio apelio yn erbyn y feto i Weinidogion Cymru. Os bydd apêl yn erbyn y feto yn llwyddiannus, bydd Gweinidogion Cymru yn pennu'r diwrnod y daw trefniadau'r Ardal Gwella Busnes i rym (adran 53(5)).

63. Cyn gwneud y cyfryw benderfyniad mae'n rhaid i Weinidogion Cymru ymgynghori â'r awdurdod bilio perthnasol a'r cyfryw bobl ag yr ymddengys eu bod yn cynrychioli'r talwyr ardrethi annomestig sy'n agored i dalu'r ardoll arfaethedig (adran 53(7)). Y gofyniad ymgynghori hwn sy'n cael ei ddiddymu.

64. Mae adran 53(7) yn nodi'r canlynol:

"(7) Before making a determination under subsection (5), the Secretary of State must consult—

(a) the billing authority concerned, and

(b) such persons as appear to him to be representative of the non-domestic ratepayers who are to be liable for the proposed BID levy."

65. Mae'r diddymiad yn caniatáu i Weinidogion Cymru benderfynu pryd y daw trefniant Ardal Gwella Busnes i rym mewn ffordd fwy amserol ac effeithlon lle mae apêl yn erbyn feto wedi bod yn llwyddiannus. Mae'r gofynion presennol yn cynnwys cam mewn proses nad oes ei angen, pan ystyrir y broses honno yn ei chyfanrwydd.

66. Ar hyn o bryd, cyn penderfynu pryd y dylai trefniant Ardal Gwella Busnes ddod i rym yn dilyn apêl yn erbyn feto, mae'n ofynnol i Weinidogion Cymru ymgynghori â'r awdurdod bilio ac unrhyw bobl eraill yr ymddengys eu bod yn cynrychioli talwyr ardrethi annomestig.

67. Bydd barn yr awdurdod bilio eisoes wedi'i nodi'n glir am mai'r awdurdod bilio a oedd yn gyfrifol am y feto. Bydd yr 'any other persons' y mae'r ddeddfwriaeth yn cyfeirio atynt eisoes wedi cael cyfle i fynegi eu barn ym mhleidlais wreiddiol y talwyr ardrethi annomestig.

68. Felly, bydd gan Weinidogion Cymru ddigon o wybodaeth er mwyn penderfynu pryd y daw trefniant Ardal Gwella Busnes i rym heb gynnal ymgynghoriad arall a fyddai'n cymryd llawer o amser.

69. Mae adran 53 o Ddeddf 2003 yn rhan o gyfraith Cymru a Lloegr. Bydd y diddymiad yn gymwys i drefniadau Ardal Gwella Busnes yng Nghymru a Lloegr a daw i rym ar ddiwedd y cyfnod o ddau fis sy'n dechrau gyda'r diwrnod y daw'r Bil yn Ddeddf.

70. Mae'r darpariaethau yn diddymu adran 53 (7) o Ddeddf Llywodraeth Leol 2003 ac nid ydynt yn cynnwys pwerau i Weinidogion Cymru wneud is-ddeddfwriaeth.

71. Ym marn Llywodraeth Cymru, mae'r darpariaethau hyn yn dod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud ag adfywio a datblygu'r economi o dan baragraff 4 o Ran 1, Atodlen 7 i Ddeddf Llywodraeth Cymru 2006 a chyllid llywodraeth leol o dan baragraff 12 o Ran 1, Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

Cymal 60 - Deddfwriaeth nad yw o ddefnydd ymarferol mwyach

Atodlen 17, Rhan 5 – Yr Amgylchedd

Deddf Cemegion Ffermydd a Gerddi 1976 (cym. 5)

72. Mae Cymal 60 o'r Bil Dadreoleiddio (sy'n dwyn y teitl “Legislation no longer of practical use”) yn cyflwyno Atodlen 17 sy'n gwneud diwygiadau helaeth i'r gwahanol ddarnau o ddeddfwriaeth a nodwyd ac yn diddymu deddfwriaeth.

73. Mae paragraffau 17 a 18 (sy'n dwyn y teitl “Farm and Garden Chemicals Act 1967 (c.50)”) yn Rhan 5 (yr Amgylchedd) o Atodlen 18 i'r Bil yn diddymu Deddf Cemegion Ffermydd a Gerddi 1967 sy'n ddiangen ac o ganlyniad i ddiddymu'r Ddeddf honno, mae'n gwneud diwygiadau canlyniadol i Ddeddf Diogelwch Bwyd 1990 (sy'n dileu paragraff 5 o Atodlen 3) a Deddf Gorfodi Rheoleiddiol a Sancsiynau 2008 (sy'n dileu'r cofnod sy'n cyfeirio at Ddeddf Cemegion Ffermydd a Gerddi 1967 yn Atodlen 3 i Ddeddf 2008). Bydd y diddymiad hwnnw a'r diwygiadau hynny yn dod i rym mewn perthynas â Chymru, Lloegr a'r Alban.

74. Mae Deddf Cemegion Ffermydd a Gerddi 1967 yn galluogi'r “Ministers” fel y'u diffinnir gan adran 5 o Ddeddf 1967, i wneud rheoliadau ynghylch labelu a marchnata cynhyrchion sy'n cynnwys sylweddau penodol. Nid yw swyddogaethau o dan Ddeddf 1967 wedi'u trosglwyddo i Weinidogion Cymru mewn perthynas â Chymru. O dan y Ddeddf mae'n drosedd gwerthu, traddodi neu ddanfon cynhyrchion sy'n cynnwys y sylweddau a nodwyd oni bai bod y cynhyrchion hynny wedi'u labelu a'u marcio yn unol â darpariaethau rheoliadau a wnaed o dan y Ddeddf. Mae'r Ddeddf hefyd yn gwneud darpariaeth ynghylch tystiolaeth sy'n ymwneud â dadansoddi cynhyrchion lle mae parti yn cael ei erlyn am drosedd o dan y Ddeddf honno.

75. Mae'r darpariaethau yn Neddf Cemegion Ffermydd a Gerddi 1967 sy'n ymwneud â labelu a marchnata plaladdwyr ffermydd a gerddi bellach yn ddiangen am eu bod wedi'u hatgynhyrchu gan ofynion cyfreithiol penodol a geir mewn deddfwriaeth arall a basiwyd gan y DU a'r UE megis Rheoliadau Cynhyrchion Diogelu Planhigion 2011 (O.S. 2011/2131) a Rheoliadau Cynhyrchion Diogelu Planhigion (Defnydd Cynaliadwy) 2012 (O.S. 2012/1657). Mae deddfwriaeth sy'n ymwneud â bioladdwyr a chynhyrchion cemegol hefyd wedi'i diweddaru gan Reoliadau Cynhyrchion Bioladdol a Chemegion (Penodi Awdurdodau a Gorfodi) 2013 (O.S. 2013/1506).

76. Nid yw'r darpariaethau sy'n diddymu Deddf Ffermydd a Gerddi 1967 ac yn gwneud y diwygiadau canlyniadol a ddisgrifiwyd uchod, ohonynt eu hunain, yn rhoi unrhyw bwerau i Weinidogion Cymru wneud is-ddeddfwriaeth.

77. Ym marn Llywodraeth Cymru, mae'r darpariaethau hyn yn dod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud â'r canlynol:

- Amaethyddiaeth, Garddwriaeth, Coedwigaeth, Iechyd Planhigion a Datblygu Gwledig o dan baragraff 1 o Ran 1 o Atodlen 7 i Ddeddf Llywodraeth Cymru 2006;

- Adfywio a datblygu'r economi, gan gynnwys gwella'r amgylchedd heb gynnwys safonau, diogelwch ac atebolrwydd cynhyrchion, ac eithrio mewn perthynas â bwyd, cynhyrchion amaethyddol a garddwriaethol a phlaladdwyr (a phethau sy'n cael eu trin yn rhinwedd unrhyw ddeddfiad fel plaladdwyr) o dan baragraff 4 o Ran 1 o Atodlen 7 i Ddeddf Llywodraeth Cymru 2006;

- Diogelu'r amgylchedd, gan gynnwys llygredd, niwsans a sylweddau peryglus, Cadwraeth natur, bioamrywiaeth, mân-ddaliadau a rhandiroedd o dan baragraff 6 o Ran 1 o Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

Deddf Cwmnïau Dŵr Statudol 1991 (cym.58)

78. Mae paragraff 19 yn Rhan 5 o'r Atodlen hon yn diddymu Deddf Cwmnïau Dŵr Statudol 1991.

79. Mae paragraff 20 yn dileu cyfeiriadau at Ddeddf 1991 a'r term “statutory water company” o Ddeddfau eraill.

80. Roedd cwmnïau dŵr statudol yn fusnesau preifat â chyfalaf cyfranddaliadau a ymgorfforwyd o dan Ddeddfau Seneddol unigol. Roedd y rhan fwyaf ohonynt yn dyddio o ganol y 19eg Ganrif ac roeddent yn cynnwys, er enghraifft, York Waterworks a ddarparai wasanaethau cyflenwi dŵr i ddinas Caerefrog. Yn wahanol i'r awdurdodau dŵr a breifateiddiwyd yn 1989, ni fu cwmnïau dŵr statudol erioed yn y sector cyhoeddus ac nid oedd yn ofynnol iddynt gofrestru fel cwmnïau cyfyngedig o dan Ddeddf Cwmnïau 1985 am eu bod wedi'u hymgorffori o dan Ddeddfau lleol. Roedd y Ddeddf Cwmnïau Dŵr Statudol yn rheoleiddio sut y gallai'r cwmnïau dŵr statudol weithredu. Er enghraifft, roedd yn cyfyngu ar gyfradd y difidend a oedd yn daladwy i gyfranddalwyr a faint o arian y gallai'r cwmni ei fenthyca.

81. Erbyn hyn nid oes unrhyw gwmnïau dŵr statudol ar ôl oherwydd, ers iddynt gael eu preifateiddio, maent naill ai wedi uno â chwmnïau dŵr eraill neu wedi cael eu cymryd drosodd gan gwmnïau cyfyngedig eraill. Golyga hyn fod darpariaethau'r Ddeddf Cwmnïau Dŵr Statudol bellach yn ddiangen ac y gellir eu diddymu.

82. Nid yw'r darpariaethau hyn yn cynnwys pwerau i Weinidogion Cymru wneud is-ddeddfwriaeth.

83. Ym marn Llywodraeth Cymru, mae'r darpariaethau hyn yn dod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud â chyflenwi dŵr, rheoli adnoddau dŵr ac ansawdd

dŵr o dan baragraff 19 o Ran 1, Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

Deddf Pysgod y Môr (Cadwraeth) 1992 (cym.60)

84. Bydd paragraff 21 (sy'n dwyn y teitl “Sea Fish (Conservation) Act 1992 (c. 60)”) yn Rhan 5 (yr Amgylchedd) o Atodlen 17 i'r Bil yn diddymu adran 10 o Ddeddf Pysgod y Môr (Cadwraeth) 1992 (cym. 60). Ar hyn o bryd, mae adran 10 o Ddeddf 1992 yn rhan o gyfraith Cymru a Lloegr, yr Alban a Gogledd Iwerddon.

85. Mae adran 10 o Ddeddf 1992 yn cynnwys gofyniad i'r Gweinidog gyflwyno adroddiad i'r Senedd yn cynnwys adolygiad o'r Ddeddf, o fewn chwe mis i 1 Ionawr 1997, ar ôl ymgynghori â'r rhai sy'n cynrychioli buddiannau'r diwydiant pysgota. Ar 20 Mawrth 1997, atebodd yr Arglwydd Lucas gwestiwn seneddol er mwyn esbonio nad oedd unrhyw sylwedd i'r adroddiad. Esboniodd mai prif ddiben y Ddeddf oedd darparu ar gyfer cyflwyno cyfyngiadau ar yr amser a dreulir ar y môr ond cafodd y polisi ei atal oherwydd her gyfreithiol a phenderfynwyd wedyn beidio â mynd ymlaen ag ef.

86. Mae paragraff 21 o Atodlen 17 i'r Bil yn diddymu adran 10 o Ddeddf 1992 am fod y cyfnod a bennwyd ar gyfer cyflawni'r ddyletswydd i gyflwyno adroddiad wedi dod i ben flynyddoedd yn ôl.

87. Dim ond diddymu adran 10 o Ddeddf Pysgod y Môr (Cadwraeth) 1912 a wna'r ddarpariaeth ac, felly, nid yw'n rhoi unrhyw bwerau i Weinidogion Cymru wneud is-ddeddfwriaeth.

88. Ym marn Llywodraeth Cymru, mae'r darpariaethau hyn yn dod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud â Physgodfeydd a Physgota o dan baragraff 1 o Ran 1 o Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

Atodlen 17, Rhan 6 – Anifeiliaid a Bwyd

Deddfau Cynnyrch Amaethyddol (Graddio a Marcio) 1928 a 1931.

89. Mae paragraffau 22 a 23 (sy'n dwyn y teitl “Agricultural Produce (Grading and Marking) Acts 1928 and 1931”) yn Rhan 6 (Anifeiliaid a Bwyd) o Atodlen 17 i'r Bil yn diddymu Deddf Cynnyrch Amaethyddol (Graddio a Marcio) 1928 a Deddf Cynnyrch Amaethyddol (Graddio a Marcio) 1931.

90. Ar hyn o bryd, mae Deddf Cynnyrch Amaethyddol (Graddio a Marcio) 1928, fel y'i diwygiwyd gan Ddeddf Cynnyrch Amaethyddol (Graddio a Marcio) 1931, yn ei gwneud yn bosibl i lunio rheoliadau sy'n rhagnodi dynodiadau gradd a marciau i nodi ansawdd cynnyrch amaethyddol a chynnyrch pysgodfeydd ac maent yn cynnwys darpariaethau sy'n ymwneud â storio a marcio wyau.

91. Prin fu'r defnydd o Ddeddfau 1928 a 1931 yn ystod y 70 mlynedd diwethaf. Maent wedi'u disodli gan ddeddfwriaeth ddomestig fwy diweddar yn ogystal â deddfwriaeth farchnata'r Undeb Ewropeaidd. Ystyrir bod y Deddfau yn ddiangen bellach ac nad ydynt yn ateb unrhyw ddiben defnyddiol ar yr adeg hon. O ganlyniad, mae paragraff 22 yn Rhan 6 o Atodlen 17 i'r Bil Dadreoleiddio yn diddymu Deddfau 1928 a 1931 ac mae paragraff 23 o'r Atodlen honno yn gwneud diwygiadau canlyniadol i Ddeddfau o ganlyniad i ddiddymu Deddfau 1928 a 1931.

92. Mae Deddfau 1928 a 1931 yn rhan o gyfraith Cymru a Lloegr a'r Alban. Mae'r cynnig i ddiddymu Deddfau Cynnyrch Amaethyddol (Graddio a Marcio) 1928 a 1931, a nodir yn y Bil Dadreoleiddio, yn ymestyn i Loegr a, chyda chydsyniad y Cynulliad, Gymru.

93. Mae'r Bil ond yn darparu ar gyfer diddymu Deddf Cynnyrch Amaethyddol (Graddio a Marcio) 1928 a Deddf Ddiwygio Cynnyrch Amaethyddol (Graddio a Marcio) 1931 ac, felly, nid yw'n rhoi unrhyw bwerau i Weinidogion Cymru wneud is-ddeddfwriaeth. Ar hyn o bryd, mae Deddf 1928 yn cynnwys pwerau i wneud offerynnau statudol sy'n destun gweithdrefn negyddol, yn unol ag adran 6 o Ddeddf 1928.

94. Ym marn Llywodraeth Cymru, mae'r darpariaethau hyn yn dod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud â'r canlynol:

- Amaethyddiaeth a Datblygu Gwledig o dan baragraff 1 o Ran 1 o Atodlen 7 i Ddeddf Llywodraeth Cymru 2006:

- Adfywio a Datblygu'r Economi a Hybu busnes a chystadleurwydd (nad yw'n cynnwys safonau cynnyrch... ac eithrio mewn perthynas â bwyd...cynhyrchion amaethyddol a garddwriaethol ac anifeiliaid a chynhyrchion anifeiliaid o dan baragraff 4 o Ran 1 o Atodlen 7 i Ddeddf Llywodraeth Cymru 2006;

- Bwyd a chynhyrchion, Diogelwch bwyd a Diogelu buddiannau defnyddwyr mewn perthynas â bwyd o dan baragraff 8 o Ran 1 o Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

Deddf Iechyd Anifeiliaid 1981 (cym. 22)

95. Mae paragraffau 24 a 25 (sy'n dwyn y teitl “Animal Health Act 1981 (c.22)”) yn Rhan 6 (Anifeiliaid a Bwyd) o Atodlen 17 i'r Bil yn diddymu Rhan 2A (Adrannau 36A i 36M) o Ddeddf Iechyd Anifeiliaid 1981. Mae Rhan 2A o Ddeddf 1981 yn galluogi'r Ysgrifennydd Gwladol i nodi, drwy Orchymyn, genoteipiau defaid sy'n fwy tueddol o gael Clefyd y Crafu (ym marn yr Ysgrifennydd Gwladol) ac yn rhoi pwerau, wedyn, i'r Ysgrifennydd Gwladol wahardd bridio o ddefaid sy'n perthyn i'r genoteip hwnnw.

96. Gosodwyd y pwerau hyn yn Neddf 1981 gan Ddeddf Iechyd Anifeiliaid 2002 ac roeddent yn adlewyrchu pryderon (ar yr adeg honno) ynghylch y posibilrwydd y gallai BSE mewn defaid gael ei guddio gan glefyd y crafu. Ar yr adeg honno, nid oedd unrhyw brawf a allai wahaniaethu rhwng BSE a chlefyd y crafu. Ers hynny, mae'r UE wedi penderfynu peidio â chyflwyno rhaglenni bridio gorfodol ar gyfer ymwrthedd genetig i glefyd y crafu mewn defaid, sy'n golygu bod y pwerau hyn yn ddiangen. At hynny, mae profion bellach ar gael a all wahaniaethu rhwng BSE a chlefyd y crafu.

97. Dechreuodd rhaglen wirfoddol ym Mhrydain Fawr, sef Cynllun Cenedlaethol Clefyd y Crafu, yn 2001 a daeth i ben yn 2009 mewn ymateb i gyngor gwyddonol wedi'i ddiweddaru gan y Pwyllgor Cynghori ar Enseffalopathïau Sbyngffurf (SEAC), a ddatgelodd nad oes fawr ddim risg, os o gwbl, o BSE mewn defaid. Hyd yma, nid yw BSE wedi'i ganfod mewn defaid ym Mhrydain Fawr nac mewn unrhyw le arall yn y byd.

98. Nid yw'r pwerau yn Rhan 2A (Adrannau 36A-M) o Ddeddf Iechyd Anifeiliaid 1981 erioed wedi'u defnyddio ac, felly, ni fydd y cynnig i'w diddymu yn effeithio ar unrhyw un.

99. Nid yw'r darpariaethau diddymu hyn, ohonynt eu hunain, yn rhoi unrhyw bwerau i Weinidogion Cymru wneud is-ddeddfwriaeth. Mae Rhan 2A o Ddeddf Iechyd Anifeiliaid 1981 (sydd i'w diddymu) yn cynnwys pwerau penodol i wneud offerynnau statudol. Nid yw'r pwerau hyn erioed wedi'u defnyddio a chânt eu dileu gan y diddymiad arfaethedig.

100. Ym marn Llywodraeth Cymru, mae'r darpariaethau hyn yn dod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud ag Amaethyddiaeth ac Iechyd a Lles Anifeiliaid o dan baragraff 1 o Ran 1 o Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

Deddf Llaeth (Rhoi'r Gorau i Gynhyrchu) 1985 (cym. 4)

101. Bydd paragraff 26 (sy'n dwyn y teitl “Milk (Cessation of Production) Act 1985 (c.4)”) yn Rhan 6 (Anifeiliaid a Bwyd) o Atodlen 17 i'r Bil yn diddymu Deddf Llaeth (Rhoi'r Gorau i Gynhyrchu) 1985. Ar hyn o bryd, mae Deddf 1985 yn rhan o gyfraith Cymru a Lloegr, yr Alban ac (at ddibenion penodol) Ogledd Iwerddon.

102. Sefydlodd Rheoliad y Cyngor (EEC) Rhif 857/84, yn weithredol o 2 Ebrill 1984, system lle y dyrannwyd maint cyfeirio (“reference quantity”) unigol i bob cynhyrchydd llaeth neu gynhyrchion llaeth. Pe bai cynhyrchiant cynhyrchydd yn fwy na'i faint cyfeirio, roedd gofyn iddo dalu ardoll. Cyfeirir at y maint cyfeirio fel arfer fel cwota llaeth (“milk quota”).

103. Roedd Rheoliad y Cyngor (EEC) Rhif 857/84 hefyd yn caniatáu i Aelod-wladwriaethau roi iawndal i gynhyrchwyr a ymrwymodd i roi'r gorau i gynhyrchu llaeth. Byddai'r fath ymrwymiad i roi'r gorau i gynhyrchu llaeth yn cynnwys ildio cwota llaeth y cynhyrchydd. Mae Deddf 1985 yn ei

gwneud yn bosibl i sefydlu cynlluniau sy'n darparu ar gyfer talu iawndal pan fydd cynhyrchwyr yn rhoi'r gorau i gynhyrchu llaeth ac yn ildio eu cwota llaeth.

104. Sefydlwyd y cyfryw gynlluniau o dan y Ddeddf honno mewn perthynas â Chymru, Lloegr a'r Alban. Dirymwyd y cynlluniau hyn yn weithredol o 6 Ebrill 2007 ac ni roddwyd unrhyw gynlluniau eraill yn eu lle (ni fwriedir gwneud hynny). Bwriedir i'r system cwota llaeth sylfaenol ei hun (y mae ei darpariaethau bellach wedi'u cynnwys yn Rheoliad y Cyngor (EC) Rhif 1234/2007 ddod i ben yn weithredol o 31 Mawrth 2015.

105. Felly, mae Deddf 1985 bellach yn ddiangen a bydd paragraff 26 yn Rhan 6 o Atodlen 17 i'r Bil yn diddymu'r Ddeddf honno mewn perthynas â Lloegr, Gogledd Iwerddon a, chyda chydsyniad y Cynulliad, Gymru. Er gwybodaeth, mae Llywodraeth yr Alban wedi cadarnhau ei bod yn bwriadu pasio deddfwriaeth i ddiddymu Deddf 1985 mewn perthynas â'r Alban, yn ddiweddarach.

106. Mae'r Bil ond yn darparu ar gyfer diddymu Deddf Llaeth (Rhoi'r Gorau i Gynhyrchu) 1985. Felly, nid yw'r Bil hwn yn darparu ar gyfer rhoi unrhyw bwerau i Weinidogion Cymru wneud is-ddeddfwriaeth.

107. Ym marn Llywodraeth Cymru, mae'r darpariaethau hyn yn dod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud â'r canlynol:

- Amaethyddiaeth a datblygu gwledig o dan baragraff 1 o Ran 1 o Atodlen 7 i Ddeddf Llywodraeth Cymru 2006;

- Adfywio a Datblygu'r Economi o dan baragraff 4 o Ran 1 o Atodlen 7 i Ddeddf Llywodraeth Cymru 2006;

- Bwyd a chynhyrchion bwyd o dan baragraff 8 o Ran 1 o Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

Gorchymyn Pyllau Glo a Mwyngloddiau Eraill (Ceffylau) 1956 (O.S. 1956/1777)

108. Bydd paragraff 27 (sy'n dwyn y teitl “Coal and Other Mines (Horses) Order 1956 (S.I. 1956/1777)”) yn Rhan 6 (Anifeiliaid a Bwyd) o Atodlen 17 i'r Bil yn diddymu Gorchymyn Pyllau Glo a Mwyngloddiau Eraill (Ceffylau) 1956 (O.S. 1956/1777). Mae Gorchymyn 1956 yn nodi rheolau iechyd a lles ar gyfer ceffylau a ddefnyddir mewn mwyngloddiau ac mae'n rhan o gyfraith Cymru a Lloegr a'r Alban.

109. Gwnaed Gorchymyn 1956 yn wreiddiol o dan adran 190 o Ddeddf Mwynfeydd a Chwareli 1954 (Deddf 1954). Ers hynny mae'r pŵer galluogi hwnnw wedi'i ddiddymu ac mae Gorchymyn 1956 bellach yn effeithiol yn rhinwedd Rheoliadau Deddfau Mwynfeydd a Chwareli 1954 i 1971 (Diddymiadau ac Addasiadau) 1974 (O.S. 1974/2013) (Rheoliadau

1974) a wnaed o dan adran 15 o Ddeddf Iechyd a Diogelwch yn y Gwaith etc. 1974.

110. Mae Gorchymyn 1956 yn cynnwys darpariaethau manwl ynghylch trin ceffylau sy'n gweithio dan ddaear mewn mwynfeydd, megis yr oedran pan ellir mynd â cheffyl dan ddaear, oriau gwaith, archwiliadau milfeddygol, gofynion stablu ac ati.

111. Erbyn hyn nid ystyrir bod Gorchymyn 1956 o ddefnydd ymarferol, am nad yw ceffylau wedi'u defnyddio mewn mwynfeydd yng Nghymru a Lloegr ers amser maith.

112. Byddai diddymu Gorchymyn 1956 yn diddymu gwaharddiad penodol ar fynd â cheffyl dan ddaear os yw dan bedair oed, yn ddall neu os nad ardystiwyd yn ddiweddar ei fod yn rhydd o'r clefyd llymeirch. Fodd bynnag, byddai unrhyw geffylau sy'n cael eu defnyddio mewn mwynfeydd yn cael eu diogelu'n briodol sut bynnag o dan ddeddfwriaeth lles anifeiliaid fodern a gymhwysir yn gyffredinol, sef Deddf Lles Anifeiliaid 2006.

113. Dim ond diddymu Gorchymyn Pyllau Glo a Mwynfeydd Eraill (Ceffylau) 1956 a wna darpariaeth y Bil a ddisgrifiwyd uchod ac, felly, nid yw'r Bil hwn yn darparu ar gyfer rhoi unrhyw bwerau i Weinidogion Cymru wneud is-ddeddfwriaeth.

114. Ym marn Llywodraeth Cymru, mae'r darpariaethau hyn yn dod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud ag Iechyd a Lles Anifeiliaid o dan baragraff 1 o Ran 1, Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

Atodlen 17, Rhan 8 – Cyfraith Droseddol

Deddf Cyfrifoldebau Heddluoedd Trefol 1847 (10 ac 11 Vict (cym.89))

115. Bydd y Rhan hon yn diddymu nifer o ddarpariaethau yn Neddf Cyfrifoldebau Heddluoedd Trefol 1847, nad ystyrir eu bod o ddefnydd ymarferol mwyach.

116. Mae adran 28 o Ddeddf 1947 yn darparu ar gyfer nifer o droseddau, mewn perthynas â gweithgareddau penodol a gyflawnir ar y stryd. Gellir disgrifio a grwpio'r troseddau hyn yn fras fel a ganlyn:

Materion sy'n ymwneud ag anifeiliaid

- Gwerthu anifeiliaid
- Cŵn Peryglus
- Lladd gwartheg
- Cadw cwt mochyn

Materion sy'n ymwneud â thrafnidiaeth

- Peidio â gyrru ar y chwith

- Gyrru ceffyl a chert neu gerbyd neu wartheg yn wyllt
- Cerbyd neu gert yn cau priffordd
- Clymu llwythi yn ddiogel ar gert neu gerbyd
- Ceffyl, cert neu gerbyd yn blocio llwybrau troed

Materion sy'n ymwneud â manwerthu

- Siopau sy'n arddangos eu nwyddau ar y llwybr troed
- Rhoi leiniau neu gordiau ar draws y stryd

Cyffredinol

- Darparu neu werthu llenyddiaeth neu bapurau anweddus neu ganu caneuon anweddus
- Tanio drylliau, taflu cerrig, teflynnau neu dân gwyllt neu wneud coelcerth
- Aflonyddu ar breswylwyr drwy ganu cloch y drws neu daro neu ddiffodd goleuadau stryd yn ‘ddireswm’.
- Hedfan barcud neu wneud sleidiau eira neu iâ
- Gwneud neu atgyweirio casgenni
- Gosod deunyddiau adeiladu i lawr oni bai eu bod wedi'u hamgáu'n ddiogel
- Curo carpedi neu rygiau (ac eithrio matiau drysau a gaiff eu curo cyn 8 am)
- Gosod potiau neu flychau blodau mewn ffenestri ar y llawr uchaf heb sicrhau eu bod wedi'u clymu'n gywir
- Taflu eitemau o do tŷ
- Caniatáu i bobl sefyll ar siliau ffenestri er mwyn cynnal a chadw'r eiddo
- Gadael drysau selerau ar agor heb y canllawiau neu'r ffensys priodol

Amgylcheddol

- Taflu ysbwriel

Byddai'r diddymiadau arfaethedig yn dileu pob un o'r troseddau o'r llyfr statud ar wahân i'r rhai canlynol:

- Pob person sy'n caniatáu i gi ffyrnig heb fwsel grwydro'n rhydd neu sy'n gyrru neu'n annog unrhyw gi neu anifail arall i ymosod ar unrhyw berson neu anifail, ei boeni neu godi ofn arno.

- Pob person sy'n marchogaeth neu'n gyrru unrhyw geffyl neu gerbyd yn wyllt, neu sy'n gyrru unrhyw wartheg yn wyllt.

- Pob person sy'n tanio unrhyw ddrylliau, neu'n taflu neu'n tanio unrhyw garreg neu deflyn arall neu'n gwneud unrhyw goelcerth neu'n taflu neu'n cynnau unrhyw dân gwyllt, a hynny'n ddireswm.

117. Ar hyn o bryd, mae'r troseddau hyn yr un mor gymwys i Gymru a Lloegr. Mae natur gydgysylltiedig systemau gweinyddol perthnasol Cymru a Lloegr yn golygu ei bod yn fwyaf effeithiol a phriodol i ddarpariaeth i

ddileu'r troseddau gael ei datblygu ar yr un pryd yn yr un offeryn deddfwriaethol. Nid yw llawer o'r troseddau hyn yn berthnasol mwyach heddiw ac mae eraill wedi'u disodli gan ddeddfwriaeth fwy diweddar ac, felly, nid yw'r penderfyniad i'w dileu o'r llyfr statud yn un cynhennus.

118. Ym marn Llywodraeth Cymru, mae nifer o'r troseddau y cyfeiriwyd atynt uchod yn dod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y maent yn ymwneud ag iechyd a lles anifeiliaid o dan baragraff 1 o Ran 1, Atodlen 7 i Ddeddf Llywodraeth Cymru 2006; priffyrdd a chyfleusterau a gwasanaethau trafnidiaeth o dan baragraff 10 o Ran 1, Atodlen 7; a diogelu'r amgylchedd o dan baragraff 6 o Ran 2, Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

119. Mae pob un o'r darpariaethau yn y Memorandwm hwn yn ymestyn i Gymru ac maent yn gymwys mewn perthynas â Chymru.

Manteision defnyddio'r Bil hwn yn hytrach na deddfwriaeth y Cynulliad

120. Ym marn Llywodraeth Cymru mae'n briodol ymdrin â'r darpariaethau hyn yn y Bil hwn i'r DU gan mai hwn yw'r cyfrwng deddfwriaethol mwyaf ymarferol a chymesur er mwyn galluogi'r darpariaethau hyn i fod yn gymwys mewn perthynas â Chymru am fod y rhan fwyaf o ddarpariaethau'r Bil, sy'n dod o fewn cymhwysedd deddfwriaethol Cymru, yn rhai technegol ac anghynnenus. At hynny, mae natur gydgysylltiedig systemau gweinyddol perthnasol Cymru a Lloegr yn golygu ei bod yn fwyaf effeithiol a phriodol i ddarpariaethau'r Bil ar gyfer y ddwy wlad gael eu datblygu ar yr un pryd yn yr un offeryn deddfwriaethol.

Goblygiadau ariannol

121. Nid oes unrhyw oblygiadau ariannol i Lywodraeth Cymru.

Alun Davies, AC
Y Gweinidog Cyfoeth Naturiol a Bwyd
Chwefror 2014

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Constitutional and Legislative Affairs Committee

Cynulliad Cenedlaethol Cymru
National Assembly for Wales

Yr Arglwydd Rooker
Cadeirydd
Cyd-bwullgor ar y Ddraft
Y Bil Dadreoleiddio
Tŷ'r Arglwyddi
Llundain
SW1A 0PW

10 Hydref 2013

Annwyl

Y Bil Dadreoleiddio Drafft

1. Cyfeiriaf at y Bil Dadreoleiddio drafft, a gyhoeddwyd gan Lywodraeth y DU ar 16 Gorffennaf, sy'n destun gwaith craffu gan eich Pwyllgor.

2. Diolch yn fawr ichi am gytuno i dderbyn tystiolaeth gan y Cynulliad Cenedlaethol ar ôl eich dyddiad cau gwreiddiol o 16 Medi 2013.

3 Trafodwyd y Bil gennym yn ein cyfarfod ar 7 Hydref.

4. Nodwn fod nifer o ddarpariaethau'r Bil, mewn perthynas â Chymru, yn ymwneud â phynciau nad ydynt wedi'u datganoli, fel cyfraith cwmnïau, methdaliad a morgludiant rhyngwladol. Mae darpariaethau eraill yn effeithio ar ddeddfwriaeth sy'n gymwys i Loegr yn unig.

5. Mae'r rheini sy'n effeithio ar gyfraith Cymru a Lloegr ynghylch pynciau fel tai a llywodraeth leol yn fwy arwyddocaol. Fodd bynnag, mae archwiliad rhagarweiniol o'r darpariaethau manwl hynny'n awgrymu y cymerwyd gofal i gyfyngu effaith y newidiadau hynny i Loegr, er enghraifft, cymalau 20 a 21 sy'n ymwneud â thai.

6. Rydym felly wedi canolbwyntio ar ystyried y darpariaethau a gaiff eu cymhwyso'n gyffredinol, yn hytrach na'r rhai penodol. Yng nghyd-destun y darpariaethau hyn, mae gennym bryderon difrifol ynghylch natur y pwerau

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sy'n cael eu rhoi i Weinidogion y DU mewn perthynas â Chymru, yn ôl yr hyn a ddarperir yn y Bil presennol.

Cymalau 51 a 57

7. O'n safbwynt ni, mae darpariaeth fwyaf arwyddocaol y Bil i'w chael yng nghymal 51. Byddai'n caniatáu i Weinidog y Goron anghymwyso deddfwriaeth pe bai'n ystyried nad oes gwerth ymarferol iddi bellach. Gallai'r Gweinidog wneud hynny drwy wneud gorchymyn yn unig. Gellid diddymu neu ddirymu deddfwriaeth yn gyffredinol, neu mewn perthynas â rhan benodol o'r DU. Mae'r Bil yn cynnwys enghreifftiau o ddeddfwriaeth San Steffan a fyddai'n anghymwys bellach yn Lloegr, ond a fyddai'n parhau i fod yn gymwys yng Nghymru. Yn Neddf Gweinidogion y Goron 1975, diffinnir Gweinidog y Goron fel a ganlyn: 'the holder of an office in Her Majesty's Government in the United Kingdom, and includes the Treasury, the Board of Trade and the Defence Council.' Mae deddfwriaeth at y dibenion hyn yn golygu Deddf (Seneddol) neu is-ddeddfwriaeth, ond *nid* Deddf neu Fesur y Cynulliad Cenedlaethol.

8. Fodd bynnag, ar sail cymal 57(2), gellid gweithredu'r pŵer Gweinidogol hwn hefyd i ddiddymu deddfwriaeth mewn perthynas ag unrhyw ddarpariaeth a wneir mewn Deddf neu Fesur y Cynulliad Cenedlaethol, neu oddi tanynt, i'r graddau bod y diddymiad yn ddarpariaeth achlysurol, atodol, canlyniadol, trosiannol, dros dro neu arbedol.

9. Yn ôl drafft presennol y Bil, os bydd gorchymyn arfaethedig yn cynnwys darpariaeth a ddaw o fewn cymhwysedd deddfwriaethol y Cynulliad Cenedlaethol pe bai wedi'i gynnwys yn un o Ddeddfau'r Cynulliad, byddai'n rhaid i Weinidog y DU gael cydsyniad Gweinidogion Cymru, ond nid cydsyniad y Cynulliad Cenedlaethol. Mae hynny'n anghyson â chymalau dilynol sy'n nodi mai'r weithdrefn uwchgadarnhaol a fyddai'n gymwys yn San Steffan ar gyfer craffu ar y gorchymyn.

10. Credwn yn gryf y byddai llawer mwy o gyfreithlondeb democrataidd pe bai'n ofynnol i Lywodraeth y DU gael cydsyniad y Cynulliad Cenedlaethol, yn hytrach na Gweinidogion Cymru, cyn diddymu deddfwriaeth a wnaed gan y Cynulliad Cenedlaethol, neu sy'n dod o fewn ei gymhwysedd.

11. Byddai gosod gofyniad statudol penodol i'r perwyl hwnnw yn y Bil yn atgyfnerthu'r egwyddor yn y Canllawiau ar Ddatganoli Rhif 9, sy'n nodi:

> "The UK Government would not normally bring forward or support proposals to legislate in relation to Wales on subjects in which the Assembly has legislative competence without the Assembly's consent."

Gallai peidio â gwneud newid o'r fath i'r Bil danseilio'r egwyddor honno.

12. Ni ddylid tanbrisio arwyddocâd diddymiadau o'r fath a rhaid iddynt fod yn destun gwaith craffu manwl gan y Cynulliad Cenedlaethol. Felly, dylai cynnig i ddiddymu deddfwriaeth o'r math a ddisgrifiwyd ym mharagraff 9 uchod gael ei osod gerbron y Cynulliad Cenedlaethol cyn gynted â phosibl i alluogi'r holl bwyllgorau perthnasol i wneud gwaith craffu amserol. Rydym o'r farn bod yr egwyddor hon mor bwysig fel y dylai'r ddyletswydd statudol i ymgynghori â'r Cynulliad Cenedlaethol (ynghyd â'r ddyletswydd i ofyn am ei gydsyniad yn hwyrach yn y broses) ymddangos ar wyneb y Bil.

Cymal 62

13. Mae gan Gymal 62(1) effaith debyg i gymal 51. Byddai'n rhoi'r pŵer i'r Ysgrifennydd Gwladol wneud gorchymyn i wneud darpariaeth sydd, yn ei farn ef, yn briodol yn sgîl y Ddeddf. Gallai hynny gynnwys darpariaeth drosiannol, dros dro neu arbedol a gallai ddiwygio, diddymu, dirymu neu addasu darpariaethau deddfwriaethol, gan gynnwys y rheini a wnaed gan y Cynulliad Cenedlaethol. (Er enghraifft, pe bai Deddf Cynulliad yn cyfeirio at ddeddfwriaeth a fyddai'n cael ei diddymu gan y Bil, gellid dileu'r cyfeiriad hwnnw.) Byddai gorchmynion sy'n diwygio deddfwriaeth sylfaenol yn destun y weithdrefn gadarnhaol yn San Steffan; byddai newidiadau i is-ddeddfwriaeth yn destun y weithdrefn negyddol.

14. Rydym o'r farn bod yn rhaid i orchmynion a wnaed o dan gymal 62(1) sy'n diwygio, diddymu, dirymu neu'n addasu darpariaethau deddfwriaethol a wnaed gan y Cynulliad Cenedlaethol neu sy'n dod o fewn ei gymhwysedd deddfwriaethol hefyd fod yn destun cydsyniad y Cynulliad Cenedlaethol.

15. Felly, mae cymalau 51, 57 a 62, a'r cymalau hynny sy'n berthnasol iddynt, yn peri cryn bryder i ni ac rydym o'r farn y dylid eu newid neu eu diwygio yn y modd a ddisgrifiwyd uchod i sicrhau bod y gwaith o graffu ar ddeddfau yn y Cynulliad Cenedlaethol yn gyson â'r un broses yn San Steffan. Rydym yn bendant o'r farn, os yw'r Bil yn aros fel y mae wedi'i ddrafftio ar hyn o bryd, bod ganddo'r potensial i danseilio'r setliad datganoli presennol yng Nghymru.

Yours sincerely

David Melding AM
Chair

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon