

Agenda – Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Lleoliad:	I gael rhagor o wybodaeth cysylltwch a:
Ystafell Bwyllgora 2 – y Senedd	Gareth Williams
Dyddiad: Dydd Llun, 7 Mawrth 2016	Clerc y Pwyllgor
Amser: 14.30	0300 200 6565
	SeneddMCD@Cynulliad.Cymru

1 Cyflwyniad, ymddiheuriadau, dirprwyon a datgan buddiannau

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

(Tudalennau 1 – 5)

CLA(4)–05–16 – Papur 1 – Offerynnau statudol sydd ag adroddiadau clir
Offerynnau'r weithdrefn penderfyniad negyddol

CLA680 – Rheoliadau Comisiynydd Pobl Hŷn Cymru (Penodi) (Diwygio) 2016

Y weithdrefn negyddol: Fe'u gwnaed ar: 8 Chwefror 2016; Fe'u gosodwyd ar: 11 Chwefror 2016; Yn dod i rym ar: 4 Ebrill 2016

CLA681 – Rheoliadau Addysg (Diwygiadau ynglŷn â'r Ysbeidiau rhwng Arolygiadau Addysg a Hyfforddiant) (Cymru) 2016

Y weithdrefn negyddol; Fe'u gwnaed ar: 3 Chwefror 2016; Fe'u gosodwyd ar: 11 Chwefror 2016; Yn dod i rym ar: 1 Medi 2016

CLA685 – Rheoliadau Dyletswydd Asiantau Gosod i Roi Cyhoeddusrwydd i Ffioedd (Eithrio) (Cymru) 2016



Y weithdrefn negyddol; Fe'u gwnaed ar: 8 Chwefror 2016; Fe'u gosodwyd ar: 16 Chwefror 2016; Yn dod i rym ar: 15 Mawrth 2016

CLA692 – Rheoliadau Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (Diwygiadau Canlyniadol) (Is-ddeddfwriaeth) 2016

Y weithdrefn negyddol; Fe'u gwnaed ar: 19 Chwefror 2016; Fe'u gosodwyd ar: 24 Chwefror 2016; Yn dod i rym ar: 6 Ebrill 2016

CLA693 – Rheoliadau Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (Diwygiadau Canlyniadol) a Chynllunio Gofal, Lleoli ac Adolygu Achosion (Diwygiadau Amrywiol) (Cymru) 2016

Negative procedure; Date made: 19 February 2016; Date laid: 24 February 2016; Coming into force date: 6 April 2016

CLA694 – Rheoliadau'r Polisi Amaethyddol Cyffredin (Diwygio) (Rhif 2) (Cymru) 2016

Y weithdrefn negyddol; Fe'u gwnaed ar: 19 Chwefror 2016; Fe'u gosodwyd ar: 24 Chwefror 2016; Yn dod i rym ar: 6 Ebrill 2016

CLA695 – Rheoliadau Addysg Uwch (Cynlluniau Ffioedd a Mynediad) (Hysbysiadau, Gweithdrefn a Chyhoeddi) (Cymru) 2016

Y weithdrefn negyddol; Fe'u gwnaed ar: 23 Chwefror 2016; Fe'u gosodwyd ar: 25 Chwefror 2016; Yn dod i rym ar: 28 Mawrth 2016

Offerynnau'r Weithdrefn Penderfyniad Cadarnhaol

CLA677 – Rheoliadau Adnoddau Dŵr (Rheoli Llygredd) (Storio Olew) (Cymru) 2016

Y weithdrefn gadarnhaol; Fe'u gwnaed ar: 14 Mawrth 2015; Fe'u gosodwyd ar: dyddiad heb ei nodi; Yn dod i rym ar: 15 Mawrth 2016

CLA686 – Rheoliadau Sgorio Hylendid Bwyd (Hyrwyddo Sgoriau Hylendid Bwyd) (Cymru) 2016

Y weithdrefn gadarnhaol; Fe'u gwnaed ar: dyddiad heb ei nodi; Fe'u gosodwyd ar: 22 Chwefror 2016; Yn dod i rym ar: 28 Tachwedd 2016

CLA687 – Gorchymyn Mesur y Gymraeg (Cymru) 2011 (Diwygio Atodlen 6) (Rhif 2) 2016

Y weithdrefn gadarnhaol; Fe'i gwnaed ar: dyddiad heb ei nodi; Fe'i gosodwyd ar: 23 Chwefror 2016; Yn dod i rym ar: 21 Mawrth 2016

CLA688 – Rheoliadau Safonau'r Gymraeg (Rhif 3) 2016

Y weithdrefn gadarnhaol; Fe'u gwnaed ar: dyddiad heb ei nodi; Fe'u gosodwyd ar: 23 Chwefror 2016; Yn dod i rym ar: 22 Mawrth 2016

CLA689 – Rheoliadau Safonau'r Gymraeg (Rhif 4) 2016

Y weithdrefn gadarnhaol; Fe'u gwnaed ar: dyddiad heb ei nodi; Fe'u gosodwyd ar: 23 Chwefror 2016; Yn dod i rym ar: 22 Mawrth 2016

CLA690 – Rheoliadau Safonau'r Gymraeg (Rhif 5) 2016

Y weithdrefn gadarnhaol; Fe'u gwnaed ar: dyddiad heb ei nodi; Fe'u gosodwyd ar: 23 Chwefror 2016; Yn dod i rym ar: 22 Mawrth 2016

CLA691 – Gorchymyn Mesur y Gymraeg (Cymru) 2011 (Darpariaethau Canlyniadol) 2016

Y weithdrefn gadarnhaol; Fe'i gwnaed ar: dyddiad heb ei nodi; Fe'i gosodwyd ar: 23 Chwefror 2016; Yn dod i rym ar: 31 Mawrth 2016

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

Offerynnau'r weithdrefn penderfyniad negyddol

CLA683 – Rheoliadau'r Polisi Amaethyddol Cyffredin (Diwygio) (Cymru) 2016

(Tudalennau 6 – 25)

Y weithdrefn negyddol; Fe'u gwnaed ar: 2 Chwefror 2016; Fe'u gosodwyd ar: 12 Chwefror 2016; Yn dod i rym ar: 23 Chwefror 2016

CLA(4)-05-16 - Papur 2 - Adroddiad

CLA(4)-05-16 - Papur 3 - Rheoliadau

CLA(4)-05-16 - Papur 4 - Memorandwm Esboniadol

CLA(4)-05-16 - Papur 5 - Llythyr gan y Gweinidog

Offerynnau Cyfansawdd y Weithdrefn Penderfyniad Negyddol

CLA678 - Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) (Diwygio) 2016

(Tudalennau 26 - 35)

Y weithdrefn penderfyniad negyddol cyfansawdd. Fe'u gwnaed ar: 4 Chwefror 2016; Fe'u gosodwyd ar: 10 Chwefror 2016; Yn dod i rym ar: 13 Mai 2016

CLA(4)-05-16 - Papur 6 - Adroddiad

CLA(4)-05-16 - Papur 7 - Rheoliadau

CLA(4)-05-16 - Papur 8 - Memorandwm Esboniadol

CLA679 - Rheoliadau'r Amgylchedd Dŵr (Y Gyfarwyddeb Fframwaith Dŵr) (Cymru a Lloegr) (Diwygio) 2016

(Tudalennau 36 - 47)

Y weithdrefn negyddol cyfansawdd; Fe'u gwnaed ar: 9 Chwefror 2016; Fe'u gosodwyd ar: 10 Chwefror 2016; Yn dod i rym ar: 3 Mawrth 2016

CLA(4)-05-16 - Papur 9 - Adroddiad

CLA(4)-05-16 - Papur 10 - Rheoliadau

CLA(4)-05-16 - Papur x 11 Memorandwm Esboniadol

4 Adroddiad Monitro Sybsidiaredd rhwng mis Medi 2015 a mis Chwefror 2016

(Tudalennau 48 - 57)

CLA(4)-05-16 Papur 12 - Adroddiad Monitro Sybsidiaredd

5 Papurau i'w nodi

(Tudalennau 58 – 64)

CLA(4)–05–16 – Papur x – Llythyr gan y Gwir Anrhydeddus Michael Gove AS i Gadeirydd y Cyd–bwyllgor ar Hawliau Dynol, 11 Chwefror 2016

CLA(4)–05–16 – Papur x – Swyddfa Cymru, Datganiad i'r Wasg: Bil Cymru, 29 Chwefror 2016

CLA(4)–05–16 – Papur x – Llythyr gan Brif Weinidog Cymru: Bil Cymru, 1 Mawrth 2016

CLA(4)–05–16 – Papur x – Llythyr gan y Llywydd at Gadeirydd y Pwyllgor Menter a Busnes

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

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

Adroddiad Etifeddiaeth Terfynol

(Tudalennau 65 – 109)

CLA(4)–05–16 – Paper 17 – Final Legacy Report

Gohebiaeth ar Agenda Llywodraeth y DU ar gyfer Diwygio'r UE

(Tudalennau 110 – 111)

CLA(4)–05–16 – Paper 18 – Draft Correspondence

7 Mawrth 2016

CLA680 - Rheoliadau Comisiynydd Pobl Hŷn Cymru (Penodi) (Diwygio) 2016

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Comisiynydd Pobl Hŷn Cymru (Penodi) 2007 (OS 2007/396) i ddarparu pŵer dewisol i'r Prif Weinidog i ymestyn tymor y Comisiynydd Pobl Hŷn ("y Comisiynydd") sydd mewn penodiad cyntaf, am uchafswm o ddwy flynedd.

Ymhellach, mae'r Rheoliadau hyn hefyd yn darparu, os bydd y Prif Weinidog yn ymestyn tymor y Comisiynydd, ni all y Comisiynydd gael ei ailbenodi am ail dymor.

CLA681 - Rheoliadau Addysg (Diwygiadau ynglŷn â'r Ysbeidiau rhwng Arolygiadau Addysg a Hyfforddiant) (Cymru) 2016

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn yn diwygio'r rheoliadau canlynol:

- Rheoliadau Arolygu Addysg a Hyfforddiant (Cymru) 2001;
- Rheoliadau Addysg (Arolygu Ysgolion) (Cymru) 2006;
- Rheoliadau Arolygu'r Gwasanaeth Gyrfaoedd a Gwasanaethau Cysylltiedig (Cymru) 2006; a
- Rheoliadau Addysg (Arolygu Addysg Feithrin) (Cymru) 2015.

Effaith y newidiadau yw galluogi Estyn i ryddhau adnoddau i helpu Llywodraeth Cymru i weithredu argymhellion adolygiad Donaldson, 'Dyfodol Llwyddiannus'. Mae'r Rheoliadau yn ei gwneud yn ofynnol i Brif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru arolygu o leiaf unwaith mewn cyfnod o saith mlynedd yn dechrau ar 1 Medi 2016 gan orffen ar 31 Awst 2023 ac o leiaf unwaith mewn cyfnod o chwe blynedd ddilynol



CLA685 - Rheoliadau Dyletswydd Asiantau Gosod i Roi Cyhoeddusrwydd i Ffioedd (Eithrio) (Cymru) 2016

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn yn darparu nad yw gweithwyr cyfreithiol proffesiynol sy'n gweithredu mewn swyddogaeth gyfreithiol ar waith sy'n ymwneud â gosodiadau yn asiantau gosod. Felly, ni fydd darpariaethau yn Neddf Hawliau Defnyddwyr 2015 sy'n ei gwneud yn ofynnol i arddangos ffioedd yn berthnasol, oni bai bod y gweithwyr cyfreithiol proffesiynol hefyd yn cyflawni agweddau eraill ar waith asiantaeth gosod.

CLA692 - Rheoliadau Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (Diwygiadau Canlyniadol) (Is-ddeddfwriaeth) 2016

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn yn darparu ar gyfer dirymu is-ddeddfwriaeth Cymru yn unig a datgymhwysu mewn perthynas ag is-ddeddfwriaeth Cymru a Lloegr a Chymru a wneir o dan unrhyw un o ddarpariaethau is-ddeddfwriaeth yr ydym wedi eu diddymu o ganlyniad i gychwyn Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 ("Deddf 2014"). Maent hefyd yn gwneud diwygiadau canlyniadol ac atodol i is-ddeddfwriaeth sy'n ofynnol o ganlyniad i gychwyn Deddf 2014 ynggyd â darpariaethau arbed a throsiannol yn ymwneud â darpariaethau gofal a chymorth a pharhad unrhyw adolygiad ymarfer plant a wnaed ond nad yw wedi'i gwblhau cyn i Ddeddf 2014 ddod i rym.

CLA693 - Rheoliadau Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 (Diwygiadau Canlyniadol) a Chynllunio Gofal, Lleoli ac Adolygu Achosion (Diwygiadau Amrywiol) (Cymru) 2016

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn, mewn perthynas â Chymru, yn newid y ddarpariaeth a wnaed yn ffurfiol o dan Ran 3 Deddf Plant 1989. Mae'r Rheoliadau'n diwygio is-ddeddfwriaeth sy'n ymwneud â phlant sy'n derbyn gofal a phlant sy'n cael eu lletya mewn perthynas â chynllunio gofal, penderfyniadau lleoli ac adolygu achosion.

CLA694 – Rheoliadau Polisi Amaethyddol Cyffredin (Diwygio) (Rhif 2) (Cymru) 2016

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Cynllun Taliad Sylfaenol a Chynlluniau Cymorth y Polisi Amaethyddol Cyffredin (Cymru) 2015 a Rheoliadau'r Polisi Amaethyddol Cyffredin (System Integredig



Gweinyddu a Rheoli a Gorfodi a Thrawsgydymffurfio) (Cymru) 2014. Mae'r newidiadau'n ymwneud â'r agweddau gweinyddol ar y Cynllun Taliad Sylfaenol a gwelliant i'r Rheoliadau Trawsgydymffurfio i ganiatáu i ffermwyr adael arwyneb garw dros y gaeaf. Mae'r Rheoliadau hefyd yn dirymu Rheoliadau Polisi Amaethyddol Cyffredin (Diwygio) (Cymru) 2016.

CLA695 - Rheoliadau Addysg Uwch (Cynlluniau Ffioedd a Mynediad) (Hysbysiadau, Gweithdrefn a Chyhoeddi) (Cymru) 2016

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn yn gwneud darpariaeth mewn perthynas â hysbysiad o dan adrannau 37, 38 a 39 o Ddeddf Addysg Uwch (Cymru) 2015 a sut a phryd y mae Cyngor Cyllido Addysg Uwch Cymru yn cydymffurfio â'i ddyletswyddau o dan adran 40(1) o Ddeddf 2015.

CLA677 - Rheoliadau Adnoddau Dŵr (Rheoli Llygredd) (Storio Olew) (Cymru) 2016

Gweithdrefn: Cadarnhaol

Mae'r Rheoliadau hyn yn ei gwneud yn ofynnol i berson sydd â gofal neu reolaeth dros olew gydymffurfio â gofynion penodol mewn perthynas â storio a thrafod. Eu nod yw lleihau ac atal llygredd dŵr.

Mae prif ofynion y Rheoliadau hyn yn cynnwys:

- rhaid i olew gael ei storio mewn cynwysyddion sy'n ddigon cryf
- rhaid i gynwysyddion olew gael eu lleoli o fewn systemau atal eilaidd
- rhaid cymryd camau i atal gollyngiadau o danciau, pypiau a phibellau ac ati.

Mae'r Rheoliadau hefyd yn cwmpasu storio a thrin olew tanwydd amaethyddol, a thrwy hynny yn disodli'r darpariaethau presennol ar gyfer olew o'r fath yn Rheoliadau Adnoddau Dŵr (Rheoli Llygredd) (Silwair, Slyri ac Olew Tanwydd Amaethyddol) (Cymru) 2010.

CLA686 - Rheoliadau Sgorio Hylendid Bwyd (Hyrwyddo Sgoriau Hylendid Bwyd) (Cymru) 2016

Gweithdrefn: Cadarnhaol

Mae'r Rheoliadau hyn yn gwneud darpariaeth mewn perthynas â hyrwyddo sgoriau hylendid bwyd o dan Ddeddf Sgorio Hylendid Bwyd (Cymru) 2013. Maent yn ei gwneud yn ofynnol i fusnesau bwyd tecawê arddangos datganiad dwyieithog ar ddeunyddiau copi caled a ddiffinnir (e.e. bwydlenni a thafenni), yn cyfeirio'r defnyddiwr at wefan sgoriau hylendid bwyd ac annog y defnyddiwr i ofyn i'r busnes bwyd am ei sgôr. Mae'r Rheoliadau hefyd yn gwneud darpariaeth ar gyfer y defnydd gwirfoddol o ddelweddau sgôr hylendid bwyd a rhagnodi eu fformat gan gynnwys creu pwerau troseddau a gorfodi.



CLA687 - Gorchymyn Mesur y Gymraeg (Cymru) 2011 (Diwygio Atodlen 6) (Rhif 2) 2016

Gweithdrefn: Cadarnhaol

Mae'r Gorchymyn hwn yn diweddarau, drwy fewnosod sefydliadau newydd, Atodlen 6 o Fesur y Gymraeg (Cymru) 2011 er mwyn galluogi Gweinidogion Cymru (drwy reoliadau ar wahân) i wneud Safonau Iaith Gymraeg mewn perthynas â'r sefydliadau hyn ac awdurdodi Comisiynydd y Gymraeg i'w gwneud yn ofynnol i'r sefydliadau hynny gydymffurfio â'r safonau

CLA688 – Rheoliadau Safonau'r Gymraeg (Rhif 3) 2016

Gweithdrefn: Cadarnhaol

Mae'r Rheoliadau hyn yn pennu safonau mewn perthynas ag ymddygiad 27 o gyrff yn y sector addysg.

Y 27 o gyrff yn y sector addysg yw:

- Dewisiadau Gyrfa Dewis Gyrfa Cyfyngedig
- Sefydliadau Addysg Bellach (Coleg Ceredigion, Coleg Sir Gâr, Coleg Merthyr Tudful Cyfyngedig, corff llywodraethu Coleg Catholig Dewi Sant, WEA YMCA CC Cymru)
- Corfforaethau Addysg Bellach (Coleg Caerdydd a'r Fro, Coleg Cambria, Coleg y Cymoedd, Coleg Gŵyr Abertawe, Coleg Gwent, Coleg Pen-y-bont, Coleg Sir Benfro, Grŵp Llandrillo Menai, Grŵp NPTC)
- Sefydliadau Addysg Uwch (Prifysgol Aberystwyth, Prifysgol Bangor, Prifysgol Caerdydd, y Brifysgol Agored, Coleg Brenhinol Cerdd a Drama Cymru Cyfyngedig, Prifysgol Abertawe, Prifysgol Cymru, Prifysgol Cymru: y Drindod Dewi Sant)
- Corfforaethau Addysg Uwch (Prifysgol Fetropolitan Caerdydd, Prifysgol Glyndŵr, Prifysgol De Cymru)
- Cyngor Cyllido Addysg Uwch Cymru.

CLA689 – Rheoliadau Safonau'r Gymraeg (Rhif 4) 2016

Gweithdrefn: Cadarnhaol

Mae'r Rheoliadau hyn yn pennu safonau mewn perthynas ag ymddygiad y cyrff a restrir yn Atodlen 6 i'r Rheoliadau. Y cyrff a restrir yw:

- Y Tribiwnlys Tir Amaethyddol
- Cyngor y Gweithlu Addysg
- Tribiwnlys Adolygu Iechyd Meddwl Cymru



- Tribiwnlys Eiddo Preswyl Cymru
- Tribiwnlys Anghenion Addysgol Arbennig Cymru
- Tribiwnlys Prasio Cymru

CLA690 – Rheoliadau Safonau'r Gymraeg (Rhif 5) 2016

Gweithdrefn: Cadarnhaol

Mae'r Rheoliadau hyn yn pennu safonau mewn perthynas ag ymddygiad y cyrff a restrir yn Atodlen 6 i'r Rheoliadau. Y cyrff yw:

- prif gwnstablaiad yr heddluoedd sy'n gweithredu yng Nghymru (Heddlu Trafnidiaeth Prydain, Cwnstablaiath Niwclear Sifil, Heddlu Dyfed Powys, Heddlu Gwent, Heddlu Gogledd Cymru a Heddlu De Cymru;
- Awdurdod Heddlu Trafnidiaeth Prydain;
- yr Awdurdod Heddlu Niwclear Sifil;
- Comisiynwyr Heddlu a Throsedd Dyfed Powys, Gwent, Gogledd Cymru a De Cymru;
- Comisiwn Cwynion Annibynnol yr Heddlu;
- yr Awdurdodau Tân ac Achub sy'n gweithredu yng Nghymru (Canolbarth a Gorllewin Cymru, Gogledd Cymru a De Cymru).

CLA691 - Gorchymyn Mesur y Gymraeg (Cymru) 2011 (Darpariaethau Canlyniadol) 2016

Gweithdrefn: Cadarnhaol

Mae'r Gorchymyn hwn yn diwygio Deddf Llywodraeth Cymru 2006 i gael gwared ar ddyletswyddau Gweinidogion Cymru mewn perthynas â'u Cynllun Iaith Gymraeg. O 31 Mawrth 2016 ymlaen, bydd yn ofynnol i Weinidogion Cymru gydymffurfio â Safonau'r Gymraeg.



Eitem 3.1 Cynulliad Cenedlaethol Cymru

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

CLA683 - Rheoliadau Polisi Amaethyddol Cyffredin (Diwygio) (Cymru) 2016

Gweithdrefn

Negyddol

Cefndir

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Cynllun Taliad Sylfaenol a Chynlluniau Cymorth y Polisi Amaethyddol Cyffredin (Cymru) 2015 a Rheoliadau'r Polisi Amaethyddol Cyffredin (System Integredig Gweinyddu a Rheoli a Gorfodi a Thrawsgydymffurfio) (Cymru) 2014. Mae'r newidiadau'n ymwneud â'r agweddau gweinyddol ar y Cynllun Taliad Sylfaenol a gwelliant i'r Rheoliadau Trawsgydymffurfio i ganiatáu i ffermwyr adael arwyneb garw dros y gaeaf.

Craffu Technegol

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

Craffu ar rinweddau

Nodwyd y pwyntiau a ganlyn i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn:

Yn unol ag adran 11A (4) o Ddeddf Offerynnau Statudol 1946, fel y'i mewnosodwyd gan baragraff 3 o Atodlen 10 i Ddeddf Llywodraeth Cymru 2006, ysgrifennodd y Gweinidog Cyllid a Busnes y Llywodraeth at y Llywydd ar 12 Chwefror 2016 i'w hysbysu y bydd y "rheol 21 diwrnod" yn cael ei thorri wrth gyflwyno'r offeryn hwn. Nododd y llythyr fod Gwasanaethau Cyfreithiol Llywodraeth Cymru wedi cael cyfarwyddyd i ddirymu ac ail-wneud y Rheoliadau er mwyn caniatáu cyfnod priodol o 21 diwrnod rhwng gosod y Rheoliadau a'r dyddiad y byddant yn dod i rym. Gosodwyd y Rheoliadau sy'n dirymu'r offeryn hwn (Rheoliadau'r Polisi Amaethyddol Cyffredin (Diwygio) (Rhif 2) (Cymru) ar 25 Chwefror 2016 a byddant yn dod i rym ar 18 Mawrth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

21 Ionawr 2016



2016 Rhif 131 (Cy. 64)

AMAETHYDDIAETH, CYMRU

Rheoliadau'r Polisi Amaethyddol Cyffredin (Diwygio) (Cymru) 2016

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Cynllun Taliad Sylfaenol a Chynlluniau Cymorth y Polisi Amaethyddol Cyffredin (Cymru) 2015 (O.S. 2015/1252) (Cy. 84) ("y Rheoliadau Taliad Sylfaenol") a Rheoliadau'r Polisi Amaethyddol Cyffredin (System Integredig Gweinyddu a Rheoli a Gorfodi a Thrawsgydymffurfio) (Cymru) 2014 (O.S. 2014/3223) (Cy. 328) ("y Rheoliadau Trawsgydymffurfio").

Mae rheoliad 2(2) yn gwneud mân ddiwygiad i reoliad 16(3)(a) o'r Rheoliadau Taliad Sylfaenol er mwyn ymgorffori sribedi coediog. Mae rheoliad 2(3) yn dirymu rheoliad 17 o'r un Rheoliadau.

Mae rheoliad 2(4) yn diwygio'r Rheoliadau Taliad Sylfaenol drwy fewnosod darpariaethau sy'n darparu y sefydlir Cronfa Genedlaethol gan Weinidogion Cymru ac yn nodi, yn ôl trefn blaenoriaeth, sut y defnyddir arian y gronfa honno. Mae rheoliad 2(4) hefyd yn mewnosod darpariaeth sy'n nodi cymhwysiad y gydran "wyrddu" o daliadau uniongyrchol, sy'n cysylltu taliadau ag arferion amaethyddol sy'n llesol i'r hinsawdd a'r amgylchedd.

Mae rheoliad 2(5) yn dirymu Rhan 2 o'r Atodlen i'r Rheoliadau Taliad Uniongyrchol.

Mae rheoliad 3 yn diwygio rheoliad 6 o'r Rheoliadau Trawsgydymffurfio, a pharagraffau 4 a 5 o Atodlen 1 iddynt. Mae rheoliad 3(2) yn diwygio rheoliad 6 mewn cysylltiad â sut y caiff y gyfradd log sy'n gymwys ei chyfrifo. Mae rheoliad 3(3) a (4) yn gwneud diwygiadau i'r Atodlen er mwyn caniatáu i fuddiolwr adael gorchudd arwyneb garw ar ôl cynaeafu ar yr amod bod yr asesiad risg angenrheidiol wedi ei gynnal a bod Gweinidogion Cymru wedi eu hysbysu amdano.

Mae'r Asesiad Effaith Rheoleiddiol sy'n gymwys i'r Rheoliadau hyn ar gael gan yr Adran Cyfoeth Naturiol, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ ac ar wefan Llywodraeth Cymru yn www.llyw.cymru.

2016 Rhif 131 (Cy. 64)

AMAETHYDDIAETH, CYMRU

Rheoliadau'r Polisi Amaethyddol Cyffredin (Diwygio) (Cymru) 2016

Gwnaed 2 Chwefror 2016

*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 12 Chwefror 2016

Yn dod i rym 23 Chwefror 2016

Mae Gweinidogion Cymru wedi eu dynodi(1) at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(2) mewn perthynas â pholisi amaethyddol cyffredin yr Undeb Ewropeaidd.

Mae'r Rheoliadau hyn yn gwneud darpariaeth at ddiben a grybwyllir yn yr adran honno ac mae'n ymddangos i Weinidogion Cymru ei bod yn hwylus dehongli unrhyw gyfeiriad at offerynnau'r UE yn y Rheoliadau hyn fel cyfeiriad at yr offerynnau hynny fel y'u diwygir o bryd i'w gilydd.

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

Enwi, cymhwyso a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau'r Polisi Amaethyddol Cyffredin (Diwygio) (Cymru) 2016.

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

(3) Daw'r Rheoliadau hyn i rym ar 23 Chwefror 2016.

(1) O.S. 2010/2690.

(2) 1972 p. 68. Diwygiwyd adran 2(2) gan adran 27(1)(a) o Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006 (p. 51) a chan adran 3(3) o Ddeddf yr Undeb Ewropeaidd (Diwygio) 2008 (p. 7), a Rhan 1 o'r Atodlen iddi. Mewnosodwyd paragraff 1A o Atodlen 2 gan adran 28 o Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006.

Diwygio Rheoliadau Cynllun Taliad Sylfaenol a Chynlluniau Cymorth y Polisi Amaethyddol Cyffredin (Cymru) 2015

2.—(1) Mae Rheoliadau Cynllun Taliad Sylfaenol a Chynlluniau Cymorth y Polisi Amaethyddol Cyffredin (Cymru) 2015(1) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 16(3)(a) ar ôl “perthi” mewnosoder “a stribedi coediog”.

(3) Mae rheoliad 17 wedi ei ddirymu.

(4) Ar ôl rheoliad 16 mewnosoder—

“Cronfa genedlaethol

18.—(1) Bydd Gweinidogion Cymru yn sefydlu cronfa genedlaethol, yn unol ag Erthygl 30(1) o'r Rheoliad Taliadau Uniongyrchol.

(2) Bydd Gweinidogion Cymru yn defnyddio'r gronfa genedlaethol, yn ôl y drefn flaenoriaeth a ganlyn—

- (a) i ddyrannu hawliau i daliadau i ffermwyr ifanc ac i ffermwyr sy'n dechrau eu gweithgarwch amaethyddol, yn unol ag Erthygl 30(6) o'r Rheoliad Taliadau Uniongyrchol;
- (b) i ddyrannu hawliau i daliadau i ffermwyr a rwystrodd rhag cael hawliau i daliadau wedi eu dyrannu iddynt o dan y cynllun taliad sylfaenol o ganlyniad i force majeure neu amgylchiadau eithriadol, yn unol ag Erthygl 30(7)(c) o'r Rheoliad Taliadau Uniongyrchol;
- (c) i ymdrin â'r anghenion blynyddol am daliadau i ffermwyr ifanc, yn unol ag Erthygl 30(7)(f) o'r Rheoliad Taliadau Uniongyrchol; a
- (d) i gynyddu'n llinol, ar sail barhaol, werth yr holl hawliau i daliadau o dan y cynllun taliad sylfaenol os yw'r gronfa genedlaethol yn fwy na 0.5% o'r terfyn cenedlaethol blynyddol ar gyfer y cynllun taliad sylfaenol, yn unol ag Erthygl 30(7)(e) o'r Rheoliad Taliadau Uniongyrchol.

Taliad am arferion amaethyddol sy'n llesol i'r hinsawdd a'r amgylchedd

19.—(1) Bydd Gweinidogion Cymru yn rhoi'r taliad am arferion amaethyddol sy'n llesol i'r hinsawdd a'r amgylchedd fel canran o gyfanswm gwerth yr hawliau i daliadau y mae'r

(1) O.S. 2015/1252 (Cy. 84).

ffermwr wedi eu gweithredu yn unol ag Erthygl 33(1) o'r Rheoliad Taliadau Uniongyrchol ar gyfer pob blwyddyn berthnasol, yn unol â thrydydd is-baragraff Erthygl 43(9) o'r Rheoliad Taliadau Uniongyrchol.

(2) Cyfrifir y ganran y cyfeirir ati ym mharagraff (1) yn unol â phedwerydd is-baragraff Erthygl 43(9) o'r Rheoliad Taliadau Uniongyrchol.”

(5) Mae Rhan 2 o'r Atodlen wedi ei dirymu.

Diwygio Rheoliadau'r Polisi Amaethyddol Cyffredin (System Integredig Gweinyddu a Rheoli a Gorfodi a Thrawsgydymffurfio) (Cymru) 2014

3.—(1) Mae Rheoliadau'r Polisi Amaethyddol Cyffredin (System Integredig Gweinyddu a Rheoli a Gorfodi a Thrawsgydymffurfio) (Cymru) 2014(1) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 6, yn lle “y diwrnod hwnnw”, rhodder “ddiwrnod gwaith cyntaf pob mis calendr”.

(3) Ym mharagraff 4(1) o Atodlen 1 yn lle “torri” rhodder “gwrthdaro ag”.

(4) Yn lle paragraff 5(2) o Atodlen 1 rhodder—

“(2) Pan fo amodau ar safle penodol yn lleihau'r risg o erydiad pridd a phan fo buddiolwr yn gadael tir heb orchudd o gnydau, sofr, gweddillion neu lystyfiant arall ar ôl trin y tir, rhaid i fuddiolwr:

- (a) gadael gorchudd arwyneb garw; a
- (b) peidio â chaniatáu i bridd erydu i lawr llethr neu oddi ar y safle; ac
- (c) llunio asesiad risg pridd arwyneb garw a'i gyflwyno i Weinidogion Cymru ar y diwrnod y caiff y tir ei drin gan adael arwyneb garw, neu cyn hynny.

(3) Yn y paragraff hwn—

ystyr “oddi ar y safle” (“*off-site*”) yw unrhyw fan sydd y tu hwnt i derfyn cae mewn daliad, gan gynnwys cae arall sy'n rhan o'r un daliad.”

(1) O.S. 2014/3223 (Cy. 328).

Rebecca Evans

Y Dirprwy Weinidog Ffermio a Bwyd, o dan
awdurdod y Gweinidog Cyfoeth Naturiol, un o
Weinidogion Cymru
2 Chwefror 2016

Explanatory Memorandum to the Common Agricultural Policy (Amendment) (Wales) Regulations 2016

This Explanatory Memorandum has been prepared by the Department of Natural Resources and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Common Agricultural Policy (Amendment) (Wales) Regulations 2016. I am satisfied that the benefits outweigh any costs.

Rebecca Evans
Deputy Minister for Farming and Food
12 February 2016

1. Description

The Common Agricultural Policy Basic Payment and Support Schemes (Wales) Regulations 2016 (the Basic Payment Scheme Regulations) and the Common Agricultural Policy (Integrated Administration and Control System and Enforcement and Cross Compliance) Wales Regulations 2014 (the Cross Compliance Regulations) require amending in line with policy objectives and further details from the European Commission. As the two pieces of legislation cover the same subject matter of the Common Agricultural Policy in Wales, it is possible to amend both using a single Statutory Instrument. The changes relate to administrative aspects of the Basic Payment Scheme and an amendment of the Cross Compliance Regulations to allow farmers to leave a rough surface over winter.

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

None

3. Legislative background

The Welsh Ministers are designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the Common Agricultural Policy (CAP) of the European Union (EU) by virtue of SI 2010/2690. This designation allows Welsh Ministers to make regulations for the purposes of implementing any EU obligation in exercise of the powers contained in section 2(2).

These amending Regulations are made subject to the negative procedure and therefore require a period of 21 days after the date they have been laid before the National Assembly for Wales to have passed prior to coming into force and effecting the amendment.

4. Purpose & intended effect of the legislation

The EU periodically reforms the CAP. The current changes taking place are for the period 2014-2020 but owing to the time taken for all institutions and Member States to reach agreement they were not implemented until 2015. The EU Regulations' contain both compulsory and optional provisions. Some of the compulsory elements also offer choices as to how they may be implemented. The amendments to the Basic Payment Scheme Regulations deal with the administration of the Scheme.

5. Consultation

1. Basic Payment Scheme

The Welsh Government has developed its Pillar 1 proposals and made decisions on the basis of extensive consultation activity from 2011 onwards. There have been four consultations throughout the process along with public meetings throughout Wales. Developing policy decisions have been shared with and commented on by a working group which has included as members the FUW, NFU (Cymru), CLA, CAAV, YFC and TFA.

2. Cross Compliance

Formal consultation on GAEC's 4 and 5 took place in 2014 during the development of 'The Common Agricultural Policy (Integrated Administration and Control System and Enforcement and Cross Compliance) (Wales) Regulations 2014'. Subsequent engagement with industry stakeholders brought to light further issues relating to the rough surface allowance. Officials engaged with key industry stakeholders through the development of the amendment and its related guidance.

PART 2 – REGULATORY IMPACT ASSESSMENT

Options

This paper is split into sections for ease of reading:

1. Basic Payment Scheme – Greening
2. Basic Payment Scheme – National Reserve
3. Basic Payment Scheme – Non-Agricultural Activities
4. Cross Compliance – Rough ploughing
5. Basic Payment Scheme - [Method for Calculating Interest on Debt](#)

1. Basic Payment Scheme – Greening

The EU Direct Payments Regulation 1307/2013¹ states that Member States can decide how the greening payment is calculated.

- Option A is to calculate the payment based on the total number of eligible hectares claimed by all claimants; this gives every claimant the same payment value per entitlement for greening.
- Option B calculates the greening payment as a percentage of the total value of the payment entitlements a claimant has individually activated.

The Welsh Government discussed this issue with key stakeholders and Option B has been chosen. This option will ensure that transition to area payments is smoother as all claimants will be getting a greening payment linked to their own entitlements.

This decision will affect all claimants although the option chosen will be more beneficial to those who are currently claiming as it will smooth their transition.

Addition to the Ecological Focus Area list

The Welsh Government was asked to provide a list of landscape features which would be eligible as Ecological Focus Areas. The chosen features for Wales included hedges. Since this decision was made the European Commission has considered Ecological Focus Area in greater detail and has advised that where a Member State has selected hedges as landscape features, they must also include wooded strips.

The Welsh Government is obligated to comply with the Commission's ruling on this issue and the list of landscape features will be increased to show hedges and wooded strips.

This is likely to benefit all claimants as it will provide further features which claimants can include in their list of eligible features. The Welsh Government

¹ Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy.

sent revised Greening Guidance during August 2015 to affected customers. An article briefly explaining the changes appeared in the November edition of Gwlad.

2. Basic Payment Scheme – National Reserve

Article 30 of the EU Direct Payments Regulation 1307/2013 allows the use of a National or Regional Reserve. This allows new entrants to enter the Basic Payment Scheme by allocating them entitlements which are available up to the budget ceiling. The National Reserve budget is approximately €5 million; this is around 3% of the overall Direct Payment ceiling. The Welsh Government has a choice of using either:

- Option A – National Reserve
- Option B – Regional Reserve

The Welsh Government is applying Option A; National Reserve. Option B can only be applied if regional payment rates were used in Wales. Wales is using a flat rate payment system with redistributive payments over a transition period to 2019.

3. Basic Payment Scheme – Non-Agricultural Activities

Article 9 of the EU Direct Payments Regulation 1307/2013 states that no direct payments shall be granted to natural or legal persons, or to groups of natural or legal persons, who operate airports, railway services, waterworks, real estate services, and permanent sport and recreational grounds. Member States may, on the basis of objective and non-discriminatory criteria, decide to add any other similar non-agricultural businesses or activities to the list above (and subsequently withdraw these additions).

The Welsh Government had previously proposed that within the list of non-agricultural activities in the Schedule to the Common Agricultural Policy Basic Payment and Support Schemes (Wales) Regulations 2015, golf courses in Wales which were situated on areas of Common Land that are used for grazing animals should be eligible to for the Basic Payment Scheme. The farmer would need to evidence that the agricultural activity on these areas was not significantly hampered by intensity, nature, duration and timing of the non-agricultural activity to be eligible for the Basic Payment Scheme.

A recent judgement from the Court of Justice of the European Union has ruled that it may now be possible to claim for any area which meets the definition of eligible hectares regardless of where that area is. As a result the list included in the Part 2 of the Schedule to the Common Agricultural Policy Basic Payment and Support Schemes (Wales) Regulations 2015 will now be removed from the Common Agricultural Policy (Amendment) (Wales) Regulations 2016.

4. Cross Compliance – Rough Surface

Background and options

Representations from the agriculture industry raised concerns about the removal of the provision 'allowing rough surface as minimum soil cover' from Cross Compliance in 'The Common Agricultural Policy (Integrated Administration and Control System and Enforcement and Cross Compliance) (Wales) Regulations 2014'. This provision had previously existed during the previous period of the CAP. The industry were concerned that preventing farmers from this agronomic practice may, in certain circumstances, exacerbate soil erosion, increase pesticide use and be detrimental to soil condition, carbon footprint and climate adaptation. Farmers Unions have also highlighted the impact on producers of early harvested potatoes as a rough surface is needed to weather and break down the soil.

Option A - Do nothing. Do not amend The Common Agricultural Policy (Integrated Administration and Control System and Enforcement and Cross Compliance) (Wales) Regulations 2014.

Under the previous Cross Compliance regime in Wales, Good Agricultural and Environmental Condition A ('GAEC A) – Soils and the post-harvest management of land', land could be left with a rough surface after cultivation to allow infiltration of rain, as a 'minimum soil cover'. The current Cross Compliance regime, which came into force on 1 January 2015, removed the allowance for farmers to leave a rough surface over winter following criticism from EC auditors.

Option B - To amend the Welsh Cross Compliance regime by incorporating within GAEC 5 a provision that would allow farmers to leave a rough surface at any date where site specific conditions that limit soil erosion can be demonstrated.

Farmers wishing to leave a rough surface will be required to undertake and submit a soil risk assessment to Welsh Government. This must demonstrate that rough ploughing practice was not being undertaken on a field where there was a high risk of soil erosion e.g. due to slope/soil type etc.

Rural Inspectorate Wales will ensure, during their routine Cross Compliance inspections, that where the rough ploughing practice has been carried out, the site was not high risk and that the Welsh Government had received notification of the farmer's intention along with a complete risk assessment that accurately reflected on-farm activity.

Preferred option: B

Operational flexibility will be improved for farmers at harvest as Option B will allow a rough surface to be left over winter; this will improve farmers' ability to achieve optimal sowing dates for crops and will allow the soil to be broken down by the frost. The requirement to complete a soil risk assessment to prevent the practice being implemented on an inappropriate site will reduce risk of soil loss.

Costs and benefits

Option A - Do nothing

No change.

Option B - Allowing farmers to leave land with a rough surface post-harvest

Costs

Leaving a rough surface post-tillage, before 2015, was one of four post-harvest options which could be employed to limit soil degradation with corresponding impacts for soil erosion and surface water runoff.

ADAS (2013) ranked post-harvest management options in terms of their efficacy in reducing soil degradation risk (Table 1). Where crops are harvested in late autumn (e.g. vegetables, potatoes, sugar beet, maize, and salad crops) a switch from cover crops, next crop or stubbles to rough surfaces, could reduce soil degradation. Where crops are harvested in early autumn, allowance of the rough surface option could exacerbate soil loss. To reduce risk of soil loss on any site that a farmer is considering leaving a rough surface, farmers will be required to complete a soil risk assessment.

Table 1: Soil Degradation Risk Associated with Post-Harvest Management

Option	Risk (Lowest to Highest)
Cover crop (sown early autumn) – good vegetation cover	1
Next crop (sown early autumn) – good vegetation cover	2
Stubble with additional crop residue/mulch	3
Stubble – compaction removed where present	4
Rough surface	5
Stale seedbeds (cultivation sequence to control weeds)	6
Cover crop (sown post late autumn harvest)	7
Next crop (sown late autumn)	8

(Adapted from ADAS, 2013)

The implications of crop choice for current erosion rates in Wales are estimated in Table 2. This multiplies the known area of crop cover in Wales with erosion coefficients for these crops established in Boardman (2013). Even though the later-sown crops have much higher mean erosion rates, they represent a smaller component of overall erosion than earlier sown autumn crops, due to their scale.

Table 2: Erosion Rates Associated with UK Crops in Wales

Mean Rate (m ³ /ha/yr.)	Welsh Crop Area (ha)	Total erosion (m ³ /yr.)
---------------------------------------	-------------------------	--

Crop			
Vegetables	5.08	456	2,316
Potatoes	2.53	1,705	4,314
Maize	4.48	12,805	57,366
Total Late Crops		14,966	63,997
Other Fodder	2.1	9011	18,923
Rape	1.92	5215	10,013
Cereals	1.8	55,066	99,119
Other	2.67	4,604	12,293
Total Other Crops		73,896	140,347
Total		88,862	204,344

(Adapted from Boardman, 2013; WAG, 2011)

A survey of English farmers (ADAS, 2012) suggests that 21% favour the rough surface method for cereals, oilseed rape or grain legumes, whilst 28% favour this method for potatoes, beet, maize, vegetables, salads, bulbs, and rhizomes. If these statistics were applied to Wales, and we assume that allowing the rough surface method would decrease erosion in late autumn sown crops, but increase erosion in earlier sown crops, the change would most likely increase the c. 29,500 m³/yr. of soil loss from earlier sown crops and decrease the 17,900 m³/yr. of soil loss from late autumn harvested crops. It should be stressed, however, that the statistics above do not take into account the relative magnitude of the change in soil loss due to the change in management regime, only the ranking. Furthermore, the spatial distribution of soil loss may not be even as this will be determined by the location of crops in a given catchment and the collective decisions of farmers post this change.

Overall, the change could potentially be net negative and so the soil risk assessment will be required to mitigate against this loss and to ensure the rough surface method is not implemented on high risk sites.

Assigning a monetary value to possible soil loss is also challenging because the magnitude of actual erosion reduction cannot be estimated. If this were possible, then the costs could be estimated with reference to the total off-farm costs of erosion from agriculture (£106 million in 1996 in the UK according to Pretty et al. 2000: An assessment of the total external costs of UK agriculture, *Agric. Syst.* 65:113-136). In the absence of this data, no estimate of monetary valuation can be provided.

If a farmer were to get a consultant to complete the soil risk assessment notification, it would likely cost around £500; this is based on one day of work at standard consultancy rates. Alternatively farmers can complete the risk assessment themselves, based on 12 hours at £12 an hour, this would cost £144. This cost would be mitigated against by decrease in labour, fuel and seed costs that would be necessary for sowing and ploughing up a cover crop and the increased flexibility in establishing a crop.

Summary of cost:

The costs of allowing a rough surface and a farmer completing a soil risk assessment are considered to be outweighed by the benefit. It is a business decision for the farmer to make to implement the rough plough practice and so if the cost outweighed the benefits he/she would choose another option for winter cover, however the reintroduction of the rough surface practice would increase operational flexibility for farmers.

Benefits

Under particular circumstances rough surfaces can provide storage for rainwater allowing water to collect before it soaks into the soil, thus helping to slow down run-off and prevent soil erosion. Rough surfaces can also reduce wind speed at the surface helping to prevent soil erosion caused by wind.

Sowing a cover crop could minimise soil erosion, however it could be detrimental to soil compaction which in turn could lead to erosion. This increases the risk of ploughing being carried out at inappropriate times to get spring crops established with associated impacts, such as smearing and compaction of sub-soils which have the potential to contribute to increased run-off and erosion. Over-working of soils in the spring can also lead to further run-off and erosion. Introducing the flexibility of allowing a farmer to leave a rough surface where a risk assessment shows that site specific condition minimise the risk of soil erosion may, therefore, lessen soil compaction, without the need for additional mechanical input, and benefit soil structure and reduce erosion.

Allowing a rough surface to be left over winter would remove costs of sowing a cover crop and may decrease the need for pesticides and herbicides. In addition, minimising the mechanical input would decrease the carbon footprint of the produce. A lower carbon footprint is also valued by retailers. Additional flexibility of allowing a rough surface would also help farmers adapt to climate change.

Currently, where a farmer sows a cover crop, to get crops drilled at the optimal time, one approach would be to get help from contractors to speed up the operation of going from stubble to drilled crop close to the ideal time. One way to represent this is to assume that all oilseed rape in Wales is followed by winter wheat and that assistance from contractors would be required for 50% of the area with the current GAEC in force. The area of oilseed rape in Wales in 2011 was 5,215 hectares so contract help would be needed with 2,608 hectares at a cost of £60.54 per hectare. This gives a total cost to farmers per year of £0.158 million (precise calculation £157,858 per year) or an NPV (Net Present Value) over five years of £0.709 million.

Summary of benefits:

Arable farmers in Wales would benefit from the increased flexibility in establishing crops. The annual benefit is estimated at approx. £0.16 million per year in addition to the fuel; seed cost and labour saving made where a cover crop might otherwise have been sown.

In 2014 there were 359 potato farmers (0.17% of declared land) in Wales within Cross Compliance. In total 2,779 farmers grew potatoes, cereals and other crops who may choose to take advantage of any flexibility provided under option B.

5. Basic Payment Scheme - Method for Calculating Interest on Debt

This describes the method for calculating debts which was previously calculated on a daily basis. The amendment will calculate debt on the first day of each month. This is an administrative change only and has no discernible impact for farm businesses.

Consultation

1. Basic Payment Scheme

There has been extensive consultation through the CAP Reform period. There have been four written consultation documents completed; December 2011, February 2013, July 2013 and March 2015. The links to these are below:

<http://gov.wales/consultations/environmentandcountryside/basic-payment-scheme-proposals/?status=closed&lang=en>

<http://gov.wales/consultations/environmentandcountryside/proposals-for-direct-payments-to-farmers/?status=closed&lang=en>

<http://gov.wales/consultations/environmentandcountryside/130206cap-reform-direct-payments-to-farmers-next-steps/?status=closed&lang=en>

<http://gov.wales/topics/environmentcountryside/farmingandcountryside/cap/pillar-1-direct-payments/documents/111219capconversation/?lang=en>

Accompanying the consultation were three rounds of evening meetings throughout Wales. One series took place in the spring of 2013; another in autumn 2013 and the final round early 2014.

Further to the consultations carried out we have engaged industry stakeholders throughout the process with the NFU, FUW, CLA, CAAV, TFA and YFC sitting as members of the CAP Modelling Group and CAP High Level Group. These met on a monthly/bimonthly basis throughout the process to discuss all of the options for the BPS along with all other aspects of the reform of the CAP.

2. Cross Compliance

Formal consultation on GAEC's 4 and 5 took place in 2014 during the development of 'The Common Agricultural Policy (Integrated Administration and Control System and Enforcement and Cross Compliance) (Wales) Regulations 2014'. Subsequent engagement with industry stakeholders brought to light further issues relating to the rough surface allowance. Officials

engaged with key industry stakeholders through the development of the amendment and its related guidance.

Competition Assessment

The amendment in Cross Compliance Regulations to allow farmers to leave a rough surface over winter will not have a significant detrimental impact on competition and it may improve a farmer's ability to compete with farmers from across the UK. Operational flexibility will be improved for farmers following harvest, this will impact on farmers equally and there is no obligation for a farmer to modify his/her practice in response to the amendment. A Competition Filter Test has been completed and is attached at Annex A.

APPENDIX A

The competition filter test

The competition filter test	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

Jane Hutt AC / AM
Y Gweinidog Cyllid a Busnes y Llywodraeth
Minister for Finance and Government Business



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref MA-L-RE-0150-16

Y Fonesig Rosemary Butler AC
Llywydd
Cynulliad Cenedalethol Cymru

12 Chwefror 2016

Annwyl Rosemary,

RHEOLIADAU'R POLISI AMAETHYDDOL CYFFREDIN (DIWYGIO) (CYMRU) 2016

Rwy'n ysgrifennu i'ch hysbysu, yn unol ag adran 11A(4) o Ddeddf Offerynnau Statudol 1946, na chafodd Rheoliadau'r Polisi Amaethyddol Cyffredin (Diwygio) (Cymru) 2016 eu cyflwyno o leiaf 21 niwrnod cyn y byddant yn dod i rym.

Oherwydd yr camgymeriad anffodus hwn, roedd y dyddiadau cyflwyno a dod i rym a nodwyd yn y Rheoliadau yn anghywir. Mae hyn yn golygu y byddan nhw'n torri'r rheol "21 diwrnod". Byddan nhw'n dod i rym ar 23 Chwefror 2016.

Mae'r Dirprwy Weinidog Ffermio a Bwyd wedi dweud wrth yr Adran Gyfreithiol am fynd ati ar frys i ddrafftio offerynnau er mwyn diddymu ac ail-wneud y Rheoliadau hyn er mwyn sicrhau bod yna 21 diwrnod rhwng y dyddiad y cânt eu cyflwyno a'r dyddiad y dônt i rym.

Rwy'n ymddiheuro am y camgymeriad hwn.

Yn gywir,

Jane Hutt AC / AM
Y Gweinidog Cyllid a Busnes y Llywodraeth
Minister for Finance and Government Business

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

English Enquiry Line 0300 0603300
Llinell Ymholiadau Cymraeg 0300 0604400
Correspondence.Jane.Hutt@wales.gsi.gov.uk

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

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

Tudalen y pecyn 25

CLA678 - The Environmental Permitting (England and Wales) (Amendment) Regulations 2016 (Saesneg yn Unig)

Gweithdrefn

Y Weithdrefn negyddol cyfansawdd

Cefndir

Mae'r Rheoliadau cyfansawdd hyn yn diwygio'r Environmental Permitting (England and Wales) Regulations 2010 trwy ystyried gofynion newydd yr UE ynghylch ardystio a phrofi cyfarpar adfer anwedd petrol

Craffu Technegol

Nodwyd un pwynt i gyflwyno adroddiad arno dan Reol Sefydlog 21.2(ix) mewn perthynas â'r offeryn hwn, sef nad yw wedi'i wneud neu i'w wneud yn Gymraeg ac yn Saesneg. Offeryn cyfansawdd yw hwn, ac mae yn y Saesneg yn unig. Mae'r Pwyllgor yn nodi'r esboniad yn y Memorandwm Esboniadol i'r Rheoliadau, syn dweud:

“These composite regulations will apply to England and Wales and are subject to negative resolution procedure in the National Assembly for Wales and in both Houses of the UK Parliament. Because the Regulations will be subject to UK Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually.”

Craffu ar rinweddau

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

Ymateb y Llywodraeth

Bydd y Rheoliadau cyfansawdd hyn yn gymwys i Gymru a Lloegr ac maent yn ddarostyngedig i'r weithdrefn penderfyniad negyddol yng Nghynulliad Cenedlaethol Cymru ac yn nau Dŷ Senedd y Deyrnas Unedig. Gan y bydd Senedd y Deyrnas Unedig yn craffu ar y Rheoliadau, ni chredir ei bod yn rhesymol ymarferol i wneud na gosod yr offeryn hwn yn ddwyieithog.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
02 Mawrth 2016



STATUTORY INSTRUMENTS

2016 No. 149

ENVIRONMENTAL PROTECTION, ENGLAND AND WALES

**The Environmental Permitting (England and Wales)
(Amendment) Regulations 2016**

Made - - - - *4th February 2016*
Laid before Parliament *10th February 2016*
Laid before the National Assembly for Wales *10th February 2016*
Coming into force - - *13th May 2016*

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 2 and 7(9)(a) of, and Schedule 1 to, the Pollution Prevention and Control Act 1999(a).

The Secretary of State, in relation to England, and the Welsh Ministers, in relation to Wales, have in accordance with section 2(4) of that Act 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 businesses as they consider appropriate; and
- (d) such other bodies or persons as they consider appropriate.

Citation and commencement

1. These Regulations may be cited as the Environmental Permitting (England and Wales) (Amendment) Regulations 2016 and come into force on 13th May 2016.

Amendment of the Environmental Permitting (England and Wales) Regulations 2010

2. The Environmental Permitting (England and Wales) Regulations 2010(b) are amended in accordance with regulations 3 and 4.

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- (a) 1999 c. 24. Section 2 was amended by the Water Act 2014 (c. 21), section 62(13) and by S.I. 2013/755. Functions of the Secretary of State under or in relation to section 2, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales, except in relation to offshore oil and gas exploration and exploitation, by the National Assembly for Wales (Transfer of Functions) Order 2005 (S.I. 2005/1958), article 3(1). Functions of the National Assembly for Wales were transferred to the Welsh Ministers by the Government of Wales Act 2006 (c. 32), Schedule 11, paragraph 30. Schedule 1 was amended by the Waste and Emissions Trading Act 2003 (c. 33), section 38, the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 105(1) and S.I. 2005/925, 2011/1043, 2012/2788 and 2015/664.
- (b) S.I. 2010/675, amended by S.I. 2011/2933; there are other amending instruments but none is relevant.

Amendment of Part 2 of Schedule 1

3.—(1) In Schedule 1, Part 2 (activities)(a) is amended as follows.

(2) In Section 1.2, in *Interpretation of Part B*, in paragraph 2, for “Directive 2009/126/EC on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations” substitute “Directive 2009/126/EC on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations”(b).

Amendment of Part 2 of Schedule 18

4. In Schedule 18, in Part 2 (PVR II)(c), for paragraph 2 substitute—

“Interpretation

2. In this Part, “PVR II” means Directive 2009/126/EC of the European Parliament and of the Council on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations.”(d).

4th February 2016

Rory Stewart
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

2nd February 2016

Carl Sargeant
Minister for Natural Resources
One of the Welsh Ministers

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Commission Directive 2014/99/EU (OJ No L 304, 23.10.2014, p. 89), which amends Directive 2009/126/EC (OJ No L 285, 31.10.2009, p. 36) as regards the test methods to certify petrol vapour recovery systems for use in service stations and the test methods to verify the operation of such systems.

Regulation 3 amends the Environmental Permitting Regulations (England and Wales) 2010 (S.I. 2010/675) to substitute the reference to Directive 2009/126/EC in Section 1.2 of Part 2 of Schedule 1, so as to take account of the amendment of that Directive by Commission Directive 2014/99/EU. Regulation 4 amends those Regulations to substitute the definition of “PVR II” in paragraph 2 of Part 2 of Schedule 18 so that the updated definition refers to that Directive as amended by Commission Directive 2014/99/EU.

An Impact Assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Better Regulation Programme, Department for Environment, Food and Rural Affairs, 17 Smith Square, London SW1P 3JR and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

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- (a) As amended by S.I. 2011/2933; there are other amending instruments but none is relevant.
(b) OJ No L 285, 31.10.2009, p. 36, as last amended by Commission Directive 2014/99/EU (OJ No L 304, 23.10.2014, p. 89). The effect of section 20A of the Interpretation Act 1978 (c. 30) is that the updated reference to Directive 2009/126/EC is to that Directive as amended by Commission Directive 2014/99/EU.
(c) Schedule 18 was substituted by S.I. 2011/2933.
(d) OJ No L 285, 31.10.2009, p. 36, as last amended by Commission Directive 2014/99/EU (OJ No L 304, 23.10.2014, p. 89). The effect of section 20A of the Interpretation Act 1978 (c. 30) is that the updated definition of PVR II refers to that Directive as amended by Commission Directive 2014/99/EU.

Explanatory Memorandum to the Environmental Permitting (England and Wales) (Amendment) Regulations 2016

This Explanatory Memorandum has been prepared by the Department for Natural Resources and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Environmental Permitting (England and Wales)(Amendment) Regulations 2016. I am satisfied that the benefits outweigh any costs.

Carl Sargeant AM
Minister for Natural Resources
10 February 2016

Description

These Regulations amend the Environmental Permitting (England and Wales) Regulations 2010 (S.I. 2010/675) ("the 2010 Regulations") to specify that new European Committee for Standardisation (CEN) standards must be used to

certify and test new equipment for recovering petrol vapour during refuelling of motor vehicles at service stations.

Matters of special interest to the Constitutional and Legislative Affairs Committee

These composite regulations will apply to England and Wales and are subject to negative resolution procedure in the National Assembly for Wales and in both Houses of the UK Parliament. Because the Regulations will be subject to UK Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually.

Legislative background

Section 2 of the Pollution Prevention and Control Act 1999 (“the 1999 Act”) enables the Welsh Ministers (in relation to Wales) to make provision by regulations for, or in connection with, regulating activities capable of causing environmental pollution. The Environmental Permitting (England and Wales) Regulations 2010, and subsequent amendments, were made under this power.

Paragraph 20(1)(b) of Schedule 1 to the 1999 Act provides that regulations made under Section 2 of that Act may make any provision made, or capable of being made under Section 2(2) European Communities Act 1972 in connection with a relevant directive. Paragraph 20(2)(c) enables the Welsh Ministers to, by order, designate any EU Directive as a ‘relevant directive’. In order to make use of this power, a further statutory instrument will need to be made prior the principal amendment regulations being made. That instrument can also be composite in nature, made by the Secretary of State in relation to England and by the Welsh Ministers in relation to Wales. There is no Parliamentary or Assembly procedure for this Order.

The 2014 Directive, amending the 2009 Directive on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations, requires transposition by 13 May 2016. The instrument that is the subject of this Memorandum will amend the 2010 Regulations so as to transpose the 2014 Directive. It applies to England and Wales.

Purpose & intended effect of the legislation

Petrol vapours can cause harm to human health and the environment. Existing legislation aims to reduce the emissions of petrol vapour to the atmosphere at various stages during the storage and distribution of petrol. Stage II petrol vapour recovery involves recovering the petrol vapour displaced from the fuel tank of a motor vehicle during refuelling at a service station and transferring that petrol vapour to an underground storage tank at the service station or back to the petrol dispenser for resale. The 2009 Directive established a minimum level of Stage II petrol vapour recovery across Member States.

The 2009 Directive has recently been amended by the 2014 Directive. The changes introduced are minor technical amendments which specify the new

European Committee for Standardisation (CEN) standards which must be used to certify and test PVR equipment, replacing the option of different national methodologies. UK industry was involved in development of these standards and will benefit from certifying to common EU standards rather than having to comply with varied national standards.

Consultation

A public consultation was held between 20 November 2015 and 11 January 2016. The consultation received 7 responses as a result of the low impact and technical nature of the change. All the responses supported the proposed amendment to the 2010 Regulations. No issues or concerns were raised.

Industry representatives and regulators responding to the consultation agreed that the regulations will not place excessive burdens on industry but rather that the proposals mandate standards already adopted in England and Wales voluntarily, and will have a positive effect on businesses which operate in other Member States.

Regulatory Impact Assessment (RIA)

Rationale for intervention and intended effects

New EU legislation on Stage II petrol vapour recovery (PVR) during the refuelling of motor vehicles at service stations has been introduced. Directive 2014/99/EU on Stage II PVR ('the 2014 Directive') amends previous PVR legislation (Directive 2009/126/EC – 'the 2009 Directive') such that Stage II PVR systems, and the testing of their efficiency, will need to comply with new European Committee for Standardisation (CEN) standards by 13 May 2016.

In order to transpose the 2014 Directive, we are proposing to introduce an amendment to the Environmental Permitting (England and Wales) Regulations 2010/675. Our amending Regulations will update the definition of 'PVRII' in paragraph 2 of Part 2 of Schedule 18 and also the reference in Schedule 1, Part 2 (activities), Section 1.2, Interpretation of Part B, paragraph 2 of the Environmental Permitting Regulations, so that it reflects the amendments introduced through the 2014 Directive.

The regulations will permit us to introduce the necessary technical changes whilst maintaining the existing legislative framework for PVR, meaning, for example, that the current system of fines and penalties for non-compliance will be maintained. The amending Regulations will have the effect of ensuring that England and Wales are compliant with the 2014 Directive.

Impact

The Stage II Petrol Vapour Recovery (PVR) Directive (2009/126/EC) aims to reduce the emissions of petrol vapour during the refuelling of motor vehicles at service stations by setting requirements for the certification and testing of vapour recovery equipment. That Directive contains a provision for adaptation to technical progress, specifically in the event that European Committee for Standardisation (CEN) standards on stage II PVR are developed. CEN standards on the certification and testing of stage II PVR equipment were introduced in 2013 (standard EN16321-1:2013 concerns certification and standard EN16321-2:2013 concerns in-service efficiency testing). The 2014 Directive was introduced in order to amend the 2009 Directive as a result of technical progress by making the use of the new CEN standards mandatory across the EU.

The impact on business is expected to be minimal. The new CEN standards have been developed at the request of industry and are based on practices which were already in common use in the UK. The UK was involved in the development of the CEN standards, and their mandatory use will provide a level playing field across the EU and reduce costs of businesses selling across the EU market. Businesses will not have to invest in new PVR technology in order to comply with the 2014 Directive. It is estimated that there will be a one-off cost of approximately £10,500-£36,000 to one UK manufacturer associated with re-certifying their products. The consultation confirmed that industry representatives agreed with the assessment of impact of transposing the Directive. There is no impact on charities or voluntary bodies. There is no impact on the public sector as the inspection rate for Local Authority regulators is unchanged by this amendment.

The intended effect of the transposing Regulations is that compliance with the new CEN standards on Stage II PVR will now be mandatory for manufacturers of stage II PVR equipment and service stations.

Service Stations

Figures from the Petrol Retailers Association (PRA) estimate that there are 8,611 service stations in the UK in total. These businesses will all be required to comply with the amendments to the 2010 Regulations we propose to introduce. Following public consultation, we consider that the impact on service stations will be extremely low. The reason for this is twofold. Firstly, the new CEN standards are largely based upon an existing set of German technical guidelines (VDI2405) which have historically been used to regulate stage II PVR equipment in the UK. Hence, service stations will not be required to invest in new PVR equipment and there will be no significant monetisable costs arising from transposition. The second reason is that the 2014 Directive makes no changes to the existing regulatory regime for PVR. It maintains the current system of the inspection and testing of stage II PVR equipment in service stations. Therefore, there will be no increase in the regulatory burden on business arising from transposition.

Stage II PVR Equipment Manufacturers

Industry representatives estimate the cost to manufacturers of re-certifying their products in accordance with the new standards to be approximately €15-50k per manufacturer, depending on the size of their operations. We understand that there is one site in the UK involved in the manufacture of stage II PVR equipment which will directly bear this cost. Hence, the monetisable impact on the manufacturing sector will be limited.

Furthermore, it was European manufacturers of stage II PVR equipment who pressed for the development of EU-wide CEN standards. The rationale for this was that it was deemed to be preferable, both in terms of economic benefit and regulatory burden, to introduce mandatory compliance with pan-EU standards than for manufacturers to certify their equipment in accordance with a variety of national technical guidelines. So, whilst there may be some costs involved in re-certifying equipment in accordance with the CEN standards, this will be less financially burdensome than having to certify the same products to show their compliance with many sets of technical standards. The UK was involved in the development of the CEN standards.

Impact on Small Businesses

The legislation applies to activities that are undertaken by small businesses. However, independent service stations will not be required to invest in new PVR equipment once compliance with the CEN standards becomes mandatory as their existing technology will already meet their requirements. They will also not experience an increase in regulatory burden as frequency of testing and inspection will remain unchanged.

The PVR equipment manufacturer mentioned in the *Stage II PVR Equipment Manufacturers* section is run by a large company and hence the limited cost of product re-certification will not be borne by small business at all.

Conclusion

The transposition of the 2014 Directive by amending the 2010 Regulations will have a limited impact on businesses, in terms of both financial and regulatory burdens. Consultation with the key stakeholders such as the Petrol Retailers Association and representatives of manufacturers of PVR equipment has been carried out and their views have been taken on board in the assessment of the impacts of the Directive. A public consultation held between November 2015 - January 2016 confirmed this assessment.

The reasons for our conclusion are summarised below:

1. European manufacturers of Stage II PVR equipment pressed for the establishment of European Committee for Standardisation (CEN) Standards on certification and testing as it was deemed to be less burdensome, both technically and financially, to introduce pan-European standards rather than to have multiple different, national sets of technical guidelines.
2. The CEN standards made mandatory by the 2014 Directive are largely based upon an existing set of technical guidelines (VDI2405), which had been used to regulate Stage II PVR in the UK. Hence, petrol retailers will not need to invest in new PVR technology because their existing equipment will already comply with the CEN Standards when they become mandatory.
3. There will be no alteration to the frequency of inspections of PVR equipment at service stations, as the 2009 Directive required that they be inspected at least once a year and this is not changed by the 2014 Directive.
4. There will be some re-certification costs for manufacturers of PVR equipment. We understand that these costs will be approximately €15-50k per manufacturer, depending on the scale of their operations. We understand, from consultation with industry, that there is only one UK site manufacturing PVR equipment which will directly bear the costs of recertification, as most manufacturers are based in other Member States.

Therefore, the total cost in the UK will be approximately £10,500-£36,000 (€15-50k).

5. We do not expect the transposition of the 2014 Directive to have an impact on small businesses, as service stations will be able to continue their operations as normal and the UK site producing PVR equipment is run by a large manufacturer.
6. The 2014 Directive aims to reduce the emissions of volatile organic compounds (VOCs) from the refuelling of vehicles at service stations. VOCs are a precursor to ozone. The reduction of their emissions across Europe arising from the implementation of an EU-wide regulatory regime for Stage II PVR will help to reduce the trans-boundary effects of pollution and lead to associated social and economic benefits.

CLA679 - Rheoliadau'r Amgylchedd Dŵr (Y Gyfarwyddeb Fframwaith Dŵr) (Cymru a Lloegr) (Diwygio) 2016 (Saesneg yn unig)

Gweithdrefn

Y Weithdrefn negyddol Cyfansawdd

Cefndir

Mae'r Rheoliadau hyn yn diwygio Rheoliadau'r Amgylchedd Dŵr (y Gyfarwyddeb Fframwaith Dŵr) (Cymru a Lloegr) 2003 i roi pwerau penodol ar gyfer dynodi dyfroedd trosiannol ac arfordirol lle y caiff pysgod cregyn eu cynaeafu'n fasnachol ac i osod gofynion ynghylch monitro unrhyw ddyfroedd dynodedig.

Gwneir y gwelliannau hyn yn dilyn diddymu Cyfarwyddeb Dyfroedd Pysgod Cregyn (79/923/EEC) gan y Gyfarwyddeb Fframwaith Dŵr (2000/60/EC) a bwriedir sicrhau bod yr amddiffyniad a ddarperir gan y Gyfarwyddeb Dyfroedd Pysgod Cregyn yn parhau. Mae'r Rheoliadau hyn hefyd yn dirymu Rheoliadau Dyfroedd Wyneb (Pysgod Cregyn) (Dosbarthiad) 1997, a roddodd y Gyfarwyddeb Dyfroedd Pysgod Cregyn ar waith.

Craffu Technegol

Nodir y pwyntiau a ganlyn i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2(ix) – nad yw wedi'i wneud neu i'w wneud yn Gymraeg ac yn Saesneg.

Mae'r Memorandwm Esboniadaol y nodi

“The Regulations will apply to England and Wales and are subject to negative resolution procedure in the National Assembly for Wales and in both Houses of the UK Parliament. Because the Regulations will be subject to UK Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually”.

Craffu ar rinweddau

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

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

02 Mawrth 2016



STATUTORY INSTRUMENTS

2016 No. 138

WATER RESOURCES, ENGLAND AND WALES

The Water Environment (Water Framework Directive) (England and Wales) (Amendment) Regulations 2016

Made - - - - *9th February 2016*
Laid before Parliament *10th February 2016*
Laid before the National Assembly for Wales *10th February 2016*
Coming into force - - *3rd March 2016*

The Secretary of State makes these Regulations in exercise of the powers conferred by—

- (a) section 2(2) of the European Communities Act 1972 (“the 1972 Act”)(a), in relation to river basin districts that are wholly in England(b);
- (b) sections 82 and 219(2) of the Water Resources Act 1991 (“the 1991 Act”)(c), in relation to England, and with the agreement of the Welsh Ministers, in respect of those parts of Wales(d) within the catchment areas of the rivers Dee, Wye and Severn(e); and
- (c) section 102 of the 1991 Act(f), in relation to river basin districts in England and Wales.

The Welsh Ministers make these Regulations in exercise of the powers conferred by—

- (a) section 2(2) of the 1972 Act in relation to river basin districts that are wholly in Wales; and
- (b) sections 82 and 219(2) of the 1991 Act, in relation to those parts of Wales not within the catchment areas of the rivers Dee, Wye and Severn.

The Secretary of State and the Welsh Ministers make these Regulations jointly in exercise of the powers conferred by section 2(2) of the 1972 Act in relation to river basin districts that are partly in England and partly in Wales.

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- (a) 1972 c. 68; section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).
 - (b) “River basin district” and “England” are defined in regulation 2(1) of S.I. 2003/3242.
 - (c) 1991 c. 57; section 219(2) was amended by paragraph 176(a) of Schedule 22, and Schedule 24, to the Environment Act 1995 (c. 25) and paragraph 28(4) of Part 2 of Schedule 7 to the Water Act 2003 (c. 37).
 - (d) “Wales” is defined in regulation 2(1) of S.I. 2003/3242.
 - (e) The functions of the Secretary of State, in relation to Wales, under section 82 (except in relation to those parts of Wales which are within the catchment areas of the rivers Dee, Wye and Severn) and section 219(2) of the Water Resources Act 1991 were transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Those functions are now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32). By virtue of article 5 and Schedule 2 to S.I. 1999/672, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006, the functions of the Secretary of State under section 82 of the Water Resources Act 1991 are exercisable only with the agreement of the Welsh Ministers in relation to those parts of Wales which are within the catchment areas of the rivers Dee, Wye and Severn.
 - (f) Section 102 was amended by S.I. 2011/1043.

The Secretary of State is a Minister designated for the purposes of section 2(2) of the 1972 Act in relation to the environment^(a) and the Welsh Ministers are designated for the purposes of that provision in relation to measures relating to water resources^(b).

Citation, extent and commencement

1. These Regulations—

- (a) may be cited as the Water Environment (Water Framework Directive) (England and Wales) (Amendment) Regulations 2016;
- (b) extend to England and Wales; and
- (c) come into force on 3rd March 2016.

Amendment of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003

2. The Water Environment (Water Framework Directive) (England and Wales) Regulations 2003^(c) are amended in accordance with regulations 3 to 10.

Amendment of regulation 2 (interpretation)

3.—(1) In regulation 2(1)—

- (a) in the definition of “appropriate agency”, before “means” insert “, except as provided for by regulation 7A(8),”;
- (b) in the definition of “appropriate authority”, before “means” insert “, except as provided for by regulation 7A(8),”;
- (c) for the definition of “environmental objectives” substitute—
 - ““environmental objectives”, in relation to a river basin district, means—
 - (a) the objectives required to comply with Article 4 of the Directive (environmental objectives) including any objectives required to comply with Article 7(2) and (3) of the Directive (waters used for the abstraction of drinking water), and the EQS Directive; and
 - (b) in relation to a shellfish water protected area, without prejudice to the objectives under paragraph (a) for the river basin district in which the shellfish water protected area is situated, the water quality objectives necessary or desirable to improve or protect that shellfish water protected area in order to support shellfish life and growth and to contribute to the high quality of shellfish products suitable for human consumption;”;
- (d) after the definition of “river basin district”, insert—
 - ““shellfish” means any bivalve or gastropod mollusc;
 - “shellfish water objectives” means the objectives referred to in paragraph (b) of the definition of environmental objectives;
 - “shellfish water protected area” means an area of water designated under regulation 7A(1);”.
- (2) In regulation 2(1A), before “statement” insert “list,”; and
- (3) In regulation 2(1B), before “statement” insert “list,”.

(a) S.I. 2008/301.
 (b) S.I. 2003/2901, to which there are amendments not relevant to these Regulations. The functions conferred on the National Assembly for Wales by means of that Order are now exercisable by the Welsh Ministers by virtue of paragraph 28(1) of Schedule 11 to the Government of Wales Act 2006.
 (c) S.I. 2003/3242, amended by S.I. 2005/2035, 2011/603, 2011/1043, 2013/755, 2015/1623; there are other amending instruments but none are relevant.

New regulation 7A (designation of shellfish waters)

4. After regulation 7 insert—

“Designation of shellfish waters

7A.—(1) Subject to paragraph (4), the appropriate authority may designate any area of coastal or transitional water within a river basin district as a shellfish water protected area by including it in the relevant list.

(2) In relation to a shellfish water protected area which is wholly in England, the relevant list is the list entitled “Shellfish Waters (England) 2016” and dated 8th February 2016.

(3) In relation to a shellfish water protected area which is wholly in Wales, the relevant list is the list entitled “Shellfish Waters (Wales) 2016” and dated 8th February 2016.

(4) An area of coastal or transitional water may not be included in the relevant list unless the appropriate authority considers that to do so is necessary or desirable in order to protect or develop economically significant shellfish production.

(5) The appropriate authority may from time to time review each designation made under paragraph (1).

(6) The first review under this regulation must be completed by 22nd December 2021 and afterwards reviews must be completed at intervals not exceeding 6 years.

(7) The appropriate agency must ensure that the relevant list is—

- (a) published on its website; and
- (b) made available to the public at its principal offices.

(8) In this regulation—

“appropriate agency” means—

- (a) in relation to a shellfish water protected area that is wholly in England, the Agency;
- (b) in relation to a shellfish water protected area that is wholly in Wales, the NRBW;

“appropriate authority” means—

- (a) in relation to a shellfish water protected area or proposed area that is wholly in England, the Secretary of State;
- (b) in relation to a shellfish water protected area or proposed area that is wholly in Wales, the Welsh Ministers.”.

Amendment of regulation 8 (register of protected areas)

5. In regulation 8(2)—

- (a) at the end of paragraph (a) omit “and”;
- (b) after paragraph (a) insert—
“(aa) a shellfish water protected area;”.

Amendment of regulation 9 (monitoring)

6. In regulation 9, after paragraph (5) insert—

“(6) The appropriate agency must maintain, in relation to each shellfish water protected area, a monitoring programme for the purposes of enabling a reliable assessment of whether the shellfish water objectives have been or will be achieved.”.

Amendment of regulation 11 (river basin management plans)

7. In regulation 11(2)—

- (a) at the end of paragraph (a) omit “and”;
- (b) at the end of paragraph (b) insert—
 - “; and
- (c) in relation to any shellfish water protected area, include equivalent information relating to the shellfish water objectives as is required by regulation 11(3)(d) to be included for the objectives referred to in paragraph (a) of the definition of environmental objectives”.

Amendment of regulation 12 (river basin management plans: public participation)

8. In regulation 12, after paragraph (4)(f) insert—

“(fa)where any part of the river basin district contains a shellfish water protected area, the Food Standards Agency;”.

Amendment of regulation 15 (river basin management plans: review)

9. In regulation 15, for paragraph (4) substitute—

“(4) The revised plan must include (in addition to the matters required to be included by regulation 11(2)(b) and (c) and (3))—

- (a) the information specified in Part B of Annex VII to the Directive (additional information for inclusion in updated river basin management plans); and
- (b) in relation to any shellfish water protected area, equivalent information relating to the shellfish water objectives as is specified in Part B of Annex VII to the Directive to be included for the objectives referred to in paragraph (a) of the definition of environmental objectives.”.

Amendment of Schedule 2 (enactments in relation to which duties in regulation 3 apply)

10. In Part 2 of Schedule 2, omit paragraph 12.

Revocations

11. The following Regulations are revoked—

- (a) the Surface Waters (Shellfish) (Classification) Regulations 1997(a);
- (b) the Surface Waters (Shellfish) (Classification) (Amendment) Regulations 2009(b).

8th February 2016

Rory Stewart
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

9th February 2016

Carl Sargeant
Minister for Natural Resources
One of the Welsh Ministers

(a) S.I. 1997/1332, amended by S.I. 2009/1266, 2013/755.
(b) S.I. 2009/1266.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003 (S.I. 2003/3242) to include shellfish water protected areas. These Regulations are made due to the revocation of Directive 2006/113/EC of the European Parliament and of the Council on the quality required of shellfish waters (OJ No L 376, 27.12.2006, p 14), so that protections under that Directive are continued. Similar provision is being made for the Solway Tweed River Basin in a separate instrument.

The effect of these Regulations is to ensure that any necessary environmental objectives required to improve or protect the water quality of a shellfish water protected area to support shellfish life and growth are set, that monitoring in relation to such objectives takes place in those areas, and that information about them is included in the river basin management plan.

The power to designate shellfish water protected areas is provided in new regulation 7A. The Secretary of State and the Welsh Ministers may designate an area within a river basin district as a shellfish water protected area by including it on a list. The list of shellfish water protected areas located in England may be obtained from, or inspected on request in writing to, the Shellfish Waters Team, the Department for Environment, Food and Rural Affairs, Area 3D, Nobel House, 17 Smith Square, London SW1P 3JR, or by emailing shellfishwater@defra.gsi.gov.uk or it can be downloaded from the Department's website at www.gov.uk/defra. A copy of the Welsh list may be obtained from, or inspected on request in writing to, the Water Branch, the Welsh Government, Cathays Park, Cardiff CF10 3NQ, or by emailing water@wales.gsi.gov.uk or it can be downloaded from the Welsh Government's website at www.wales.gov.uk.

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

Explanatory Memorandum to: The Water Environment (Water Framework Directive) (England and Wales) (Amendment) Regulations 2016.

This Explanatory Memorandum has been prepared by the Department for Economy, Skills and Natural Resources and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of The Water Environment (Water Framework Directive) (England and Wales) (Amendment) Regulations 2016.

Carl Sargeant,
Minister for Natural Resources
One of the Welsh Ministers

10 February 2016

1. Description

These Regulations amend the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003 (“2003 Regulations”) to provide specific powers for the designation of transitional and coastal waters where shellfish are commercially harvested and to place requirements regarding the monitoring of any designated waters.

These amendments are made following the repeal of the Shellfish Waters Directive (79/923/EEC) by the Water Framework Directive (2000/60/EC) and are intended to ensure that the protections provided by the Shellfish Waters Directive continue. These Regulations also revoke the Surface Waters (Shellfish) (Classification) Regulations 1997, which implemented the Shellfish Waters Directive.

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

For the reasons set out in paragraph 3, in so far as these Regulations relate to cross-border river basins, they are to be made jointly with the Secretary of State. In so far as relating to river basin districts wholly in Wales or wholly in England, the Regulations are to be made compositely. The Regulations will apply to England and Wales and are subject to negative resolution procedure in the National Assembly for Wales and in both Houses of the UK Parliament.

Because the Regulations will be subject to UK Parliamentary scrutiny, it is not considered reasonably practicable for this instrument to be made or laid bilingually.

To date, the Welsh Government has tended towards transposing EU Directives compositely with Defra. This was due in part, to the fact that the Environment Agency acted as the main environment regulator for both the Welsh Government and UK Government.

With the creation of Natural Resources Wales in 2013, there is more scope to operate differently in Wales; however with respect to this particular Directive, there is limited scope to transpose directions differently due to the river basin areas that are partly in Wales and partly in England.

The Welsh Ministers have the power to give Natural Resources Wales directions for the implementation of EU obligations such as this. However, that power only covers river basin districts wholly in Wales. If the Welsh Government were to undertake a separate transposition it would only apply to the Western Wales river basin and the Severn and Dee River Basins would still need to be directed jointly with Defra.

Transposing the Directive jointly with the UK Government also ensures there is consistency in delivery something that the European Commission is keen to see with regards to the overall Water Framework Directive.

These Regulations are made in reliance on section 2(2) of the European Communities Act 1972. By virtue of section 59(3) of the Government of Wales Act 2006, the Welsh

Ministers are to determine whether an instrument made in exercise of the section 2(2) powers is to be subject to the negative or affirmative procedure.

This statutory instrument is subject to annulment of the Assembly (negative procedure). The Regulations are made to ensure correct transposition of the Water Framework Directive and so there is little discretion involved. The Regulations do not amend any provision of an Assembly Act or Measure. Accordingly, the Welsh Ministers have determined that these Regulations are to be subject to the negative resolution procedure.

3. Legislative background

The Shellfish Waters Directive (79/923/EEC) was implemented in England and Wales by the Surface Waters (Shellfish) (Classification) Regulations 1997 (S.I. 1997/1332). In December 2013 the Shellfish Waters Directive was repealed by the Water Framework Directive (2000/60/EC). Article 4.9 of the Water Framework Directive sets out that it offers a level of protection at least equal to any Directive which it repeals. These Regulations amend the 2003 Regulations to continue the protections which were provided by the Shellfish Waters Directive.

Section 80 of the Government of Wales Act 2006 (“GOWA 2006”) states that an obligation of the UK is also an obligation of the Welsh Ministers if and to the extent that the obligation could be implemented (or enabled to be implemented) or complied with by the exercise by the Welsh Ministers of any of their functions.

Section 59 of GOWA 2006 enables the Welsh Ministers to be designated for the purposes of section 2 (2) of the European Communities Act 1972 (“the ECA 1972”). Section 2 (2) of the ECA 1972 enables designated Ministers or departments to implement EU obligations and rights. The Welsh Ministers are designated for the purposes of section 2(2) of the ECA 1972 in relation to water resources by virtue of Article 3 of European Communities (Designation) (No. 4) Order 2003/2901 (the original designation has transferred to the Welsh Ministers from the National Assembly for Wales by virtue of sections 59 and 162 of, and paragraph 28 of Schedule 11 to the Government of Wales Act 2006). . That designation also provides that where regulations are to be made under this designation in relation to or identifying river basin districts which lie partly in England and partly in Wales, they shall be made jointly with the Secretary of State.

The Welsh Ministers can therefore make the Regulations using the enabling powers in section 2(2) of the ECA 1972 in relation to river basin districts which lie wholly in Wales, and jointly with the Secretary of State in relation to districts lying partly in England and partly in Wales.

The powers in sections 82 and 219(2) of the Water Resources Act 1991 are also being used in so far as they relate to the revocation of the Surface Waters (Shellfish) (Classification) Regulations 1997 and the Surface Waters (Shellfish) (Classification) (Amendment) Regulations 2009. Section 102 of that Act is also

being exercised by the Secretary of State for the same purpose, but this power has not been transferred to the Welsh Ministers

The Welsh Ministers therefore have the power to amend the Water Environment (Water Framework Directive) (England and Wales) Regulations 2003 under section 2(2) of the European Communities Act 1972, having been designated in relation to water resources.

These Regulations will apply to England and Wales and are subject to negative resolution procedure in both Houses of the UK Parliament and the National Assembly for Wales.

4. Purpose & intended effect of the legislation

The Surface Waters (Shellfish) (Classification) Regulations 1997 (“Shellfish Regulations 1997”) implemented the Shellfish Waters Directive (79/923/EEC as amended), and aimed to protect shellfish growth and contribute to a high quality product for human consumption. Directive 79/923/EEC has now been repealed by the Water Framework Directive (2000/60/EC) which is intended to replace its protections.

For the majority of parameters in the Shellfish Waters Directive, the Water Framework Directive provides a necessary update to the 1970s standards set in the Shellfish Waters Directive. These offer the same or improved levels of protection of shellfish growing in protected waters based on modern scientific recommendations.

The Water Framework Directive is designed to protect the ecological health of the water body, including the shellfish growing within it. Technical advice from the UK technical advisory group for the implementation of the Water Framework Directive and the European Commission indicates that the physical and chemical parameters set down within the Water Framework Directive for protecting water quality are equivalent or better than the requirements which were set in the Shellfish Waters Directive.

However the Water Framework Directive does not include the non-mandatory faecal indicator organism standard which was contained in the Shellfish Waters Directive. The aim of the faecal indicator organism standard is to contribute to a high quality shellfish product for human consumption. Shellfish hygiene rules set quality standards for human consumption based on faecal indicator organisms and protects human health from poor quality shellfish. These hygiene rules are the responsibility of the Food Standards Agency.

The amendments to the 2003 Regulations provide that the Welsh Ministers (in relation to areas wholly in Wales) may designate waters where shellfish are commercially harvested as “shellfish water protected areas”. Waters are designated through inclusion in a ‘relevant list’ that will be made by the Welsh Ministers prior to the making of the Regulations. Any subsequent amendments to the list of designated waters will require an amendment to the 2003

Regulations. Inclusion in the 'relevant list' places a requirement to include those protected areas in the water quality planning regime of the Water Framework Directive.

In addition to the general environmental objectives that must be pursued in relation to river basin districts there is an additional objective to be pursued in relation to shellfish water protected areas, as inserted by regulation 3. This objective is set under the definition of "environmental objectives" in regulation 2 of the 2003 Regulations and relates to 'the water quality objectives necessary or desirable to improve or protect a shellfish water protected area in order to support shellfish life and growth and to contribute to the high quality of the shellfish products suitable for human consumption'. This wording follows the objectives of the original Shellfish Waters Directive and ensures compliance with the requirement in article 4.9 of the Water Framework Directive to afford the same level of protection to shellfish waters as existed under previous Community legislation. Directions made by the Welsh Ministers to Natural Resources Wales in relation to Welsh areas (made compositely with Secretary of State in relation to areas partly in Wales and partly in Wales) will be used to set the technical details of the objectives, and will be used to ensure appropriate protection is afforded to shellfish waters in line with the Water Framework Directive. The first direction of this nature is the Shellfish Water Protected Areas (England and Wales) Directions 2016 which sets out that Natural Resources Wales, when meeting the water quality objectives placed by these Regulations, must also endeavour to meet the faecal indicator organism standard, that is, the microbial standard in shellfish protected waters. There is no substantive change to policy as the overall effect of the amendments is to replicate the requirements from the Shellfish Regulations 1997 and the Shellfish Waters Directive. Retaining these protections is important as shellfish are bio accumulators of pollution in the environment, and in order to protect and improve their quality, environmental standards for water quality are required to protect them from pollution from point and diffuse sources.

The only change to policy is to subject water quality improvements for shellfish waters to an explicit test of cost and benefit, which is a fundamental part of the Water Framework Directive. As a non-mandatory standard in the Shellfish Waters Regulations 1997, improvements were subject to an implicit process of cost benefit assessment in the past. As part of the Water Framework Directive, this process will now be open, explicit and offer stakeholders opportunities to comment on and inform the assessment.

5. Consultation

These amending Regulations affect functions of the Environment Agency, Natural Resources Wales, the Secretary of State and the Welsh Ministers. There is no substantive change to policy as the overall effect of the amendments is to replicate the requirements from the Shellfish Regulations 1997; since they do not have any novel implications for industry or the public, there has been no public consultation exercise, however, Natural Resources Wales have been engaged in the consideration of these amendments and their comments have been taken into account.

6. Regulatory Impact Assessment (RIA)

Since the amending Regulations have no direct impact on statutory duties or statutory partners, a separate impact assessment has not been prepared for this instrument.

Eitem 4

Y Gwasanaeth Ymchwil | Research Service

Adroddiad monitro sybsidiaredd rhwng mis Medi 2015 a mis

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol | 7 Mawrth 2016
Constitutional and Legislative Affairs Committee | 7 March 2016

Papur briffio gan y Gwasanaeth Ymchwil

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1. Cyflwyniad

O dan Reol Sefydlog 21, caiff 'pwyllgor cyfrifol' yn y Cynulliad (ar hyn o bryd, y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol) ystyried deddfwriaeth ddrafft yr Undeb Ewropeaidd (UE) sy'n ymwneud â materion o fewn cymhwysedd deddfwriaethol y Cynulliad neu sy'n ymwneud â swyddogaethau Gweinidogion Cymru a'r Cwnsler Cyffredinol, a hynny er mwyn ystyried a yw'n cydymffurfio ag egwyddor sybsidiaredd.

Mae egwyddor sybsidiaredd wedi'i hymgorffori yn Erthygl 5 o Gytuniad yr Undeb Ewropeaidd.

1. "The limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality.

2. Under the principle of conferral, the Union shall act only within the limits of the competences conferred upon it by the Member States in the Treaties to attain the objectives set out therein. Competences not conferred upon the Union in the Treaties remain with the Member States.

3. Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.

The institutions of the Union shall apply the principle of subsidiarity as laid down in the Protocol on the application of the principles of subsidiarity and proportionality. National Parliaments ensure compliance with the principle of subsidiarity in accordance with the procedure set out in that Protocol.

4. Under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties.

The institutions of the Union shall apply the principle of proportionality as laid down in the Protocol on the application of the principles of subsidiarity and proportionality."

Yn ogystal, llywodraethir y dull o gymhwyso'r egwyddor hon gan y Protocol ar Gymhwyso Egwyddorion Sybsidiaredd a Chymesuredd. Mae'r rhan sy'n berthnasol at ddibenion gwaith y Cynulliad wedi'i chynnwys ym mharagraff cyntaf Erthygl 6:

"Any national Parliament or any chamber of a national Parliament may, within eight weeks from the date of transmission of a draft legislative act, in the official languages of the Union, send to the Presidents of the European Parliament, the Council and the Commission a reasoned opinion stating why it considers that the draft in question does not comply with the principle of subsidiarity. It will be for each national Parliament or

each chamber of a national Parliament to consult, where appropriate, regional parliaments with legislative powers."

2. Y broses fonitro

Er mwyn sicrhau bod y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol yn cyflawni ei swyddogaeth monitro sybsidiaredd yn effeithiol, fel y nodir yn y Rheolau Sefydlog, mae swyddogion y Cynulliad yn monitro holl gynigion deddfwriaethol drafft yr UE sy'n gymwys i Gymru yn systematig er mwyn gweld a ydynt yn codi pryderon sybsidiaredd. Amlinellir y modd y mae swyddogion y Cynulliad yn monitro'r cynigion hyn isod:

- Yn gyntaf, rhoddir gwybod i'r Cynulliad am yr holl gynigion a gaiff eu cyhoeddi gan y Comisiwn Ewropeaidd drwy restr (a adnabyddir fel "swp restr") a gaiff ei hanfon gan y Swyddfa Dramor a Chymanwlad ar ran Llywodraeth y DU at Wasanaeth Ymchwil y Cynulliad.
- Yna, bydd yr adran berthnasol o Lywodraeth y DU yn paratoi memorandwm esboniadol a fydd wedi'i seilio ar y cynigion a amlinellir yn y swp restr. Fel arfer, bydd hyn yn digwydd rhwng pedair a chwe wythnos i'r dyddiad y ceir yr hysbysiad gwreiddiol gan y Swyddfa Dramor a Chymanwlad. Mae pob memorandwm yn cynnwys asesiad o effaith y cynigion ar bolisiau (gan gynnwys asesiad o farn adran berthnasol Llywodraeth y DU ynghylch a yw'r cynnig yn codi unrhyw bryderon sybsidiaredd). Mae copïau o bob memorandwm yn cael eu hanfon at y Cynulliad drwy'r Gwasanaeth Ymchwil.
- Mae'r Gwasanaeth Ymchwil yn hidlo'r memoranda sy'n dod i law er mwyn ystyried a yw'r cynnig cysylltiedig yn 'ddeddfwriaethol' neu'n 'anneddfwriaethol' ac a ydynt yn cynnwys materion a allai fod o ddiddordeb i'r Cynulliad (hy yn ymwneud â materion datganoledig).
- Bydd y memoranda hynny sy'n gysylltiedig â chynigion sy'n 'ddeddfwriaethol' ac sy'n ymdrin â materion sydd o ddiddordeb i'r Cynulliad yn cael ystyriaeth bellach gan swyddogion o Wasanaeth Cyfreithiol y Cynulliad, Swyddfa Brwsel a'r Gwasanaeth Ymchwil er mwyn penderfynu a ydynt yn codi pryderon sybsidiaredd posibl.
- Os bydd cynnig yn codi pryderon sybsidiaredd, bydd swyddogion y Cynulliad yn rhoi gwybod ar unwaith i'r Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol. Yna, gofynnir i Aelodau ystyried a ddylai'r Pwyllgor ofyn i'r naill Dŷ neu'r llall yn San Steffan gyhoeddi 'barn resymedig' ar y cynnig neu beidio, neu ofyn i'r ddau ohonynt.
- Bydd y cynigion hynny sy'n 'ddeddfwriaethol' ac sy'n berthnasol i faterion datganoledig ond nad ydynt yn codi pryderon sybsidiaredd yn cael eu coladu mewn adroddiad monitro a gaiff ei gynhyrchu gan y Gwasanaeth Ymchwil. Mae'r adroddiad hwn yn cael ei ystyried yn bapur i'w nodi gan y Pwyllgor Materion Cyfansoddiadol a

Deddfwriaethol ym mhob tymor, fel arfer, o fewn blwyddyn yn y Cynulliad (tymor yr hydref [Medi–Rhagfyr], tymor y gwanwyn [Ionawr–Ebrill] a thymor yr haf [Mai–Awst]).

Felly, mae'r adroddiad hwn yn cynnwys trosolwg cyffredinol o'r cynigion deddfwriaethol UE drafft hynny a anfonwyd at Wasanaeth Ymchwil y Cynulliad rhwng 1 Mehefin 2015 a 31 Awst 2015. Mae hefyd yn cynnwys rhagor o wybodaeth am y cynigion hynny y nodwyd eu bod yn 'ddeddfwriaethol' ac yn berthnasol i faterion datganoledig y Cynulliad gan swyddogion y Cynulliad.

Fodd bynnag, noder mai cynigion 'deddfwriaethol' a gaiff eu monitro yn yr adroddiad hwn yn bennaf. Ar y cyfan, nid yw'n cynnwys manylion unrhyw 'gynigion anneddfwriaethol' a allai fod yn berthnasol i waith y Cynulliad. Mae'r rhain yn cael eu monitro ar wahân gan y Gwasanaeth Ymchwil.

3. Trosolwg o gynigion drafft yr Undeb Ewropeaidd a ddaeth i law (rhwng mis Medi 2015 a mis Chwefror 2016)

Cafodd Gwasanaeth Ymchwil y Cynulliad gyfanswm o xxx o femoranda esboniadol gan Lywodraeth y DU mewn perthynas â chynigion yr Undeb Ewropeaidd rhwng 1 Medi 2015 a 29 Chwefror 2016.

O'r rhain, roedd xx memorandwm esboniadol o ddiddordeb polisi i'r Cynulliad a chawsant eu rhannu â'r Gwasanaeth Ymchwil. Nododd swyddogion y Cynulliad fod x yn 'ddeddfwriaethol' o ran natur ac o ddiddordeb i'r Cynulliad.

Yn dilyn gwaith dadansoddi pellach gan swyddogion o Wasanaethau Cyfreithiol y Cynulliad, o Swyddfa Brwsel ac o'r Gwasanaeth Ymchwil, penderfynwyd nad oedd yr un o'r cynigion yn codi pryderon sybsidiaredd er bod y manylion ynghylch pryderon eraill wedi'u cynnwys er gwybodaeth.

Cynigion deddfwriaethol o dan y Comisiwn Ewropeaidd newydd

Yn gyffredinol, roedd nifer cynigion deddfwriaethol yr UE wedi gostwng o dan y Comisiwn Ewropeaidd newydd yn dilyn etholiadau Ewrop ym mis Mai 2014. Bu newid eithaf radical yn ymagwedd y Comisiwn Ewropeaidd tuag at ei waith blaengynllunio; un o nifer o newidiadau a gyflwynwyd gan y Comisiwn Juncker newydd a ddaeth i rym ym mis Tachwedd 2014.

Caiff hyn ei adlewyrchu yn Rhaglen Waith y Comisiwn Ewropeaidd ar gyfer 2016 sy'n cynnwys dim ond 23 o fentrau newydd. O'r rhain mae 18 ohonynt yn ddeddfwriaethol. Mae hyn yn wahanol iawn i'r Comisiwn blaenorol a fyddai, ar gyfartaledd, yn cyflwyno dros 100 o gynigion deddfwriaethol bob blwyddyn, ac mae'n arwydd o ymagwedd gyffredinol y Comisiwn hwn i symleiddio proses yr UE o lunio polisiau a deddfu. Mae Rhaglen Waith 2016 hefyd yn cynnwys nifer sylweddol o gynigion ar gyfer addasu deddfwriaeth neu dynnu

deddfwriaeth yn ôl ac yn nodi 27 o ddeddfau i'w hadolygu, ail-lunio, uno, amnewid neu fyrhau fel rhan o raglen Rheoleiddio Ffitrwydd y Comisiwn (REFIT).

3.1 Cynigion deddfwriaethol yr UE nad oeddent yn codi unrhyw bryderon sybsidiaredd

Dyddiad yr
anfonwyd
drwy e-bost

Teitl a disgrifiad

12/10/15

Cynnig ar gyfer Argymhelliad Cyngor ar integreiddio pobl sy'n ddiwaith yn yr hirdymor yn y farchnad lafur. (COM (2015) 462/2)

Nod yr argymhelliad Comisiwn hwn yw rhoi canllawiau ar ddarparu gwasanaethau i gynyddu'r gyfradd o drosglwyddo pobl o ddiweithdra tymor hir i gyflogaeth yn yr aelod-wladwriaethau hynny sy'n rhoi ychydig o gymorth neu ddim cymorth o gwbl, ac i adeiladu ar fesurau sydd eisoes ar gael mewn aelod-wladwriaethau eraill. Mae Llywodraeth y DU yn ystyried bod y DU yn aelod-wladwriaeth sydd â threfniadau o'r fath eisoes yn eu lle ac yn datgan bod y cynigion yn adlewyrchu polisi'r DU yn y maes hwn yn agos.

Nid yw polisi cyflogaeth wedi'i ddatganoli i Gymru er bod polisiau addysg a hyfforddiant wedi'u datganoli ac mae'r materion a gwmpesir gan y memorandwm esboniadol yn debygol o fod o ddiddordeb i Weinidogion Cymru.

Nid yw'r cynnig yn rhwymol ac nid yw Llywodraeth y DU wedi nodi unrhyw faterion sybsidiaredd.

26/10/15

Cynnig ar gyfer Cyfarwyddeb y Cyngor ar weithredu'r egwyddor o drin pobl yn gyfartal waeth beth fo'u crefydd neu gred, anabledd, oedran neu gyfeiriadedd rhywiol. (SOC 246 JAI 368 MI 411)

Cynigiwyd y gyfarwyddeb triniaeth gyfartal ddrafft hon yn gyntaf yn 2008, ac ers hynny mae wedi cael ei haddasu dipyn yn dilyn trafodaethau rhwng aelod-wladwriaethau. Byddai'r gyfarwyddeb yn gwahardd gwahaniaethu ar sail crefydd neu gred, oedran, anabledd a chyfeiriadedd rhywiol wrth ddarparu gwasanaethau ac wrth gyflawni swyddogaethau cyhoeddus. Mae hefyd yn cynnig gwahardd aflonyddu mewn perthynas â'r nodweddion gwarchodedig hyn ac i roi amddiffyniad rhag erledigaeth. Os caiff ei fabwysiadu, byddai'r gyfarwyddeb yn cwblhau amddiffyniad yr UE o'r nodweddion gwarchodedig a gydnabyddir ym maes gwasanaethau a swyddogaethau cyhoeddus, gyda'r Cyngor wedi gwahardd gwahaniaethu ar sail rhyw a hil yn y meysydd hyn rai blynyddoedd yn ôl, ynghyd â gwaharddiadau ym mhob sail a ddiogelir ym maes cyflogaeth a hyfforddiant galwedigaethol.

Mae rhai agweddau ar gyfle cyfartal wedi'u datganoli i Gymru, er bod

deddfwriaeth cyfle cyfartal yn gyffredinol yn fater a gadwyd yn ôl. Mae'r gyfarwyddeb yn effeithio ar rai meysydd lle mae polisi wedi'i ddatganoli ee addysg.

Yn ystod trafodaethau ar y gyfarwyddeb ddrafft ceisiodd Llywodraeth y DU sicrhau bod yr egwyddor sybsidiaredd wedi'i bodloni, yn enwedig ynghylch ei defnydd i gael mynediad at wasanaeth penodol yn unig yn hytrach na materion yn ymwneud â chymwysedd, ac mae bellach yn ystyried bod y gyfarwyddeb ddrafft yn bodloni meini prawf sybsidiaredd.

Heb ddod i law cafwyd mynediad drwy Senedd Alban 14/1/16
Mae'r Memorandwm Esboniadol hwn yn ymwneud â phedair dogfen ar **gynnig gan y Comisiwn ynghylch gwastraff** sy'n rhan o becyn Economi Gylchol mwy o faint ac sy'n anelu, yn rhannol, at adolygu ailgylchu a thargedau eraill sy'n ymwneud â gwastraff.

Mae'r Memorandwm Esboniadol yn cynnwys diwygiadau arfaethedig i chwe Cyfarwyddeb ar drin gwastraff:

- Cyfarwyddeb 2000/53/EC ar gerbydau diwedd oes;
- Cyfarwyddeb 2006/66/EC ar fatris a chronaduron a batris a chronaduron gwastraff;
- Cyfarwyddeb 2012/19/EC ar wastraff offer trydanol ac electronig;
- Cyfarwyddeb 1999/31/EC ar dirlenwi gwastraff;
- Cyfarwyddeb 2008/98/EC ar wastraff; a
- Cyfarwyddeb 94/62/EC ar becynu a gwastraff pecynnu.

Mae Llywodraeth y DU wedi nodi pryderon am sybsidiaredd ynghylch y cynnig i fewnosod erthygl 8a newydd yn y Gyfarwyddeb Fframwaith Gwastraff y mae'n credu y bydd yn lleihau disgrisiwn lleol, a'r gofyniad arfaethedig bod aelod-wladwriaethau yn rhoi cymhellion ariannol ar waith i sicrhau amcanion atal gwastraff ac ailgylchu.

Er bod rhai o'r pryderon yn ymwneud â materion datganoledig, nid oes pryderon penodol Cymreig ynghylch sybsidiaredd.

Mae Swyddfa'r Cynulliad yn Mrwsel wedi ymateb i ymgynghoriad sybsidiaredd Pwyllgor Rhanbarthau'r UE ynghylch y cynigion. Mae'r ymateb yn ymwneud â barn rhai rhanddeiliaid yr ymgynghorodd Pwyllgor Amgylchedd a Chynaliadwyedd y Cynulliad â nhw ac a fynegodd siom nad oedd cynigion y Comisiwn yn ddigon uchelgeisiol.

22/2/16 *Cynnig ar gyfer Rheoliad gan Senedd Ewrop a'r Cyngor ar fercwri, a dirymu*

Rheoliad (CE) Rhif 1102/2008 (COM (2016)39)

Byddai'r Rheoliad arfaethedig yn llenwi nifer cyfyngedig o fylchau rheoliadol sy'n bodoli rhwng gofynion Confensiwn Minamata ar Fercwri (y mae'r Cyngor yn bwriadu ei gadarnhau) a deddfwriaeth bresennol yr Undeb Ewropeaidd. I wneud hynny'n effeithlon, cynigir bod Rheoliad (EC) Rhif 1102/2008 ar wahardd allforio mercwri metelaidd a rhai cyfansoddion a chymysgeddau mercwri penodol a storio mercwri metelaidd yn ddiogel yn cael ei ddirymu, er y byddai llawer o ofynion y Rheoliad hwnnw'n cael eu cadw.

Mae'r cynnig yn ymwneud â gwarchod yr amgylchedd sy'n fater sydd wedi'i ddatganoli. Nid yw Llywodraeth y DU yn nodi unrhyw faterion sybsidiaredd yn ymwneud â'r cynigion.

3.2 Cynigion deddfwriaethol eraill yr UE a allai fod o ddiddordeb

Dyddiad yr
anfonwyd Teitl a disgrifiad
drwy e-bost

4/1/16

Penderfyniad Senedd Ewrop ar 11 Tachwedd 2015 ar ddiwygio cyfraith etholiadol yr Undeb Ewropeaidd

Cynnig ar gyfer Penderfyniad gan y Cyngor i fabwysiadu'r darpariaethau sy'n diwygio'r Ddeddf ynghylch ethol aelodau o Senedd Ewrop, drwy bleidlais gyffredinol uniongyrchol

Mae hwn yn gynnig gan Senedd Ewrop (ac felly yn gymharol anarferol gan fod y rhan fwyaf o gynigion deddfwriaethol yn deillio o'r Comisiwn Ewropeaidd). Mae'r diwygiadau arfaethedig yn eang ac mae'r rhan fwyaf yn ymwneud â diwygio cyfraith yr Undeb Ewropeaidd mewn perthynas â chynnal etholiadau i Senedd Ewrop.

Yn ei memorandwm esboniadol mae Llywodraeth y DU yn mynegi pryderon sybsidiaredd ynghylch y cynigion gan fod gan aelod-wladwriaethau gymhwysedd wrth weinyddu etholiadau sy'n cynnwys y gweithdrefnau'n ymwneud ag etholiadau seneddol Ewrop o fewn eu tiriogaethau eu hunain, ar yr amod eu bod yn cydymffurfio â Deddf 1976 ac nad ydynt, yn y bôn, yn effeithio ar natur gyfrannol y system bleidleisio.

Mae cymhwysedd o'r fath, yn ôl Llywodraeth y DU, yn golygu bod modd sicrhau cysondeb ag etholiadau eraill, fel y rhai i gynulladau neu seneddau cenedlaethol neu ranbarthol ac mae'r cynigion sy'n ceisio hyrwyddo arfer unffurf ar draws gwladwriaethau yn ymwneud â materion y mae Llywodraeth y DU yn ystyried y dylid penderfynu arnynt yn genedlaethol. Mae'n amheus ynghylch effeithiolrwydd tebygol y cynigion ac yn ceisio rhagor o eglurder ynghylch yr hyn a fwriedir.

Mae'r memorandwm esboniadol yn nodi'r system bresennol ar gyfer etholiadau i Senedd Ewrop sydd, yn y DU, yn cynnwys 12 rhanbarth etholiadol, y mae Cymru yn un ohonynt, gyda 73 o seddi ASE y DU yn cael eu dosbarthu ymhlith y rhanbarthau yn gymesur â'u hetholwyr ac yn amodol ar o leiaf tair sedd ym mhob rhanbarth. Y rhanbarth gyda'r nifer fwyaf o seddi yw'r de-ddwyrain a chanddo 10 sedd. Felly, ni fyddai'r cynnig i gyflwyno trothwyon gorfodol i ennill seddi yn Senedd Ewrop mewn etholaethau sydd â mwy na 26 o seddi yn effeithio ar unrhyw ranbarth yn y DU. Er hynny, mae Llywodraeth y DU yn gwrthwynebu cyflwyno trothwyon gorfodol ac mae'n datgan y bydd yn dymuno ystyried yn ofalus y cynnig ar

gyfer mabwysiadu egwyddor o'r fath.

Byddai'r cynnig i osod terfyn amser cyffredin o 12 wythnos o leiaf o ddechrau pleidleisio ar draws aelod-wladwriaethau ar gyfer sefydlu rhestrau o ymgeiswyr sy'n sefyll mewn etholiad yn anghyson â'r dyddiad cau diweddarach o dan drefniadau etholiadol presennol y DU ac felly byddai'n ei gwneud yn anodd alinio etholiadau Senedd Ewrop ag etholiadau eraill.

Mae cynnig Senedd Ewrop y dylid gosod terfyn amser cyffredinol o wyth wythnos cyn pleidleisio ar draws yr aelod-wladwriaethau i sefydlu rhestr o etholwyr cymwys hefyd yn groes i derfyn amser y DU o 12 diwrnod gwaith cyn yr etholiad (gyda rhywfaint o hyblygrwydd ar gyfer addasiadau hwyr). Mae Llywodraeth y DU yn gwrthwynebu cam o'r fath y mae'n credu y byddai'n cyfyngu ar gyfranogiad a lleihau hyblygrwydd y trefniadau presennol.

Nid yw Llywodraeth y DU ychwaith yn cefnogi'r defnydd arfaethedig o gwotâu cyfreithiol i sicrhau cydraddoldeb rhywiol ymhlith ymgeiswyr etholiadol.

Mae gan Lywodraeth y DU amheuan ynghylch y cynnig i fabwysiadu pleidleisio electronig a phleidleisio ar y rhynggrwyd yn etholiadau Ewrop ar sail diogelwch, tryloywder a chost, a'r hyn mae'n ei weld yn ddiffyg cefnogaeth glir gan y cyhoedd yn y DU.

Mae'r memorandwm esboniadol yn datgan bod y cynnig i atal Aelodau Seneddol Ewropeaidd rhag dal swydd mewn senedd ranbarthol neu gynulliad (lle bo gan y rhain bwerau deddfu) hefyd yn gofyn am ystyriaeth bellach ac mae llywodraeth y DU yn dod i'r casgliad y gallai fod yn well penderfynu hyn ar lefel aelod-wladwriaethau.

Caiff nifer o faterion eraill hefyd eu hamlygu ym memorandwm esboniadol Llywodraeth y DU.

Ar 3 Chwefror 2016, cyhoeddodd Pwyllgor Craffu Ewrop Tŷ'r Cyffredin *[farn resymedig Tŷ'r Cyffredin ynghylch Penderfyniad Cyngor Arfaethedig yn mabwysiadu'r darpariaethau sy'n diwygio'r Ddeddf ynghylch ethol aelodau o Senedd Ewrop drwy bleidlais gyffredinol uniongyrchol \("y cynnig"\)](#)*.

Rt Hon Harriet Harman MP
Chair of Joint Committee on Human Rights
Committee Office
House of Commons
London
SW1A 0AA

(11/2) February 2016

Harriet Harman

THE GOVERNMENT'S PROPOSALS FOR A BILL OF RIGHTS

Thank you for your letter of 20 January raising your concerns in relation to the possibility of overlap between the consultation on proposals for a Bill of Rights and elections to the devolved legislatures.

The government was elected with a mandate to reform and modernise the UK Human Rights Framework. I have made clear that the government is committed to consulting fully on proposals prior to the introduction of any legislation. My ministerial colleagues and I have already engaged with the devolved administrations on human rights reform and I am committed to continuing to do so throughout the process. We will also engage fully with the public and with legal, academic and civil society stakeholders in all parts of the UK, and, indeed, we have already made a start in this process.

In terms of the timing of our consultation, we will publish our proposals in due course and we will, of course, adhere to any guidance published by the Cabinet Office in respect of the pre-election periods.

Furthermore, I very much welcome any further engagement from the Committee as part of the consultation process.

Yours, with every good wish
Michael

MICHAEL GOVE



Press release

Amended Wales Bill will deliver a stronger devolution settlement

From: Wales Office (<https://www.gov.uk/government/organisations/wales-office>) and The Rt Hon Stephen Crabb MP (<https://www.gov.uk/government/people/stephen-crabb>)

First published: 29 February 2016

Secretary of State for Wales Stephen Crabb today announced changes to the Wales Bill to remove constitutional red tape and deliver a stronger devolution settlement for Wales.



Speaking at a press conference in Cardiff Bay, one year on from the St David's Day Agreement, Stephen Crabb announced that he will:

Remove the so-called 'necessity test', so that the Assembly will be able to change the law to help enforce its legislation without first applying the test

- Reduce the number of reservations in the Bill

- Remove the general restriction on the Assembly modifying a Minister of the Crown function in devolved areas

These changes follow a four month period of pre-legislative scrutiny during which the Welsh Affairs Committee in the House of Commons and the Constitution and Legislative Affairs Committee in the Welsh Assembly heard evidence on how a reserved powers model will work in Wales.

Necessity

On the so-called "necessity test" as it applies to the general principles of the law, the Secretary of State said that he had considered representations to replace it with a different test but concluded that the best way to proceed is to remove the restriction all together.

Given that a key aim is to reduce complexity, removing the "necessity test" will cut the constitutional red tape which risks fettering the ability of the Assembly to modify the law to enforce its legislation for which it is responsible.

Consents

When the Welsh Government wants the Assembly to legislate on matters that affect a reserved body (a body for which the UK Government is responsible) they seek the consent of the UK Government to do so.

Consent is currently also needed for the Assembly to legislate about Minister of the Crown functions in devolved areas as a result of a general restriction on so called "pre-commencement functions". The Secretary of State today announced that he will remove that restriction and look at each of these functions with a view to devolving as many as possible.

Legal jurisdiction

The Secretary of State has also considered calls for a "distinct jurisdiction" or a "separate jurisdiction". With the Assembly being given full law-making powers in 2011, there is now a growing body of distinct Welsh law. At present, this makes up a tiny fraction of the overall body of law for England and Wales which has developed over 500 years of legal history. The Secretary of State today made clear that there is not a case at present for dividing the single jurisdiction of England and Wales which has worked well for the people of this country and continues to do so.

However, he announced today that there is a clear need to look at the delivery of justice in Wales to take account of the distinct and growing body of Welsh law. The Secretary of State will therefore establish a working group with the Ministry of Justice, the Lord Chief Justice's office, and the Welsh Government, to consider what distinct arrangements are required to recognise Wales's needs within the England and Wales jurisdiction when the reserved powers model is implemented.

Reservations

The Secretary of State has instructed officials in the Wales Office to work through the list of reservations with Cabinet colleagues, to see where the number of reservations can be reduced and the list simplified.

Stephen Crabb said:

" Last year I set out my vision for a Welsh devolution settlement that will stand the test of time by delivering a reserved powers model for Wales and giving further powers to both the Assembly and the Welsh Government.

This pre-legislative scrutiny process has led to a vigorous debate on the detail and I am grateful to the Welsh Affairs Committee and the Assembly's Constitutional and Legislative Affairs Committee, as well as those that gave evidence from civic society, who have helped guide the decisions I have made.

Today's announcement helps deliver on the commitments I made one year ago to introduce a historic funding floor, to devolve more powers and remove constitutional and legal red tape to create a stronger and clearer devolution for Wales

I am optimistic that we can now deliver a better Bill, and a better settlement, as a result."

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- Share on Twitter (<https://twitter.com/share?url=https%3A%2F%2Fwww.gov.uk%2Fgovernment%2Fnews%2Famended-wales-bill-will-deliver-a-stronger-devolution-settlement&text=Amended%20Wales%20Bill%20will%20deliver%20a%20stronger%20devolution%20settlement>)

Tudalen y pecyn 60

STATEMENT BY THE WELSH GOVERNMENT

TITLE **The Draft Wales Bill**

DATE **1st March 2016**

BY **Rt. Hon. Carwyn Jones AM, First Minister of Wales**

Llywydd, I would like to make a statement responding to the Secretary of State's announcement yesterday that the Wales Bill is to be "paused".

We do now have an opportunity - if the will is truly there - to repair the damage done by a flawed process and produce a genuinely meaningful piece of legislation.

I should first make clear to the Assembly that I know no more about the Secretary of State's intentions than has appeared in the press. The Welsh Government was not notified beforehand of the content of the Secretary of State's announcement, nor has there been any follow-up communication as to what might happen next. If there is to be any real progress with this Bill, it must be a Bill made with Wales, not for Wales, as recognised by both the Assembly's committee on constitutional and legal affairs and more recently the Welsh Affairs Select Committee.

The UK Government's press release about the announcement makes a number of points, and I deal with these in turn.

First, on the overall model of devolution, the so-called 'necessity' test is to be removed. On the face of it, this is to be welcomed, and of course reflects the views of this Assembly, and of many others who have commented on the Bill. But it remains unclear exactly what the announcement implies. Sadly I cannot envisage a situation where there will be no restrictions at all on the Assembly's powers to modify the private and criminal law. Unfortunately, it is impossible for me to comment further without seeing more detail.

That is also true of the second element of yesterday's announcement, on Ministerial powers and consents. The Welsh Government's position has been clear for many months and is on the record. The Secretary of State announced that he will look at each of these with a view to devolving as many as possible. That is good, but this cannot be a matter for the Secretary of State alone: if there are to be exceptions to the general principle, these must be agreed between the two governments, and that will require dialogue. Welsh Government officials have held two meetings with Wales Office officials where this was on the agenda and I wrote to the Secretary of

State specifically on this issue on 23 November 2015. Other than his public indication yesterday that the English veto on Welsh laws was never his intention, we have had no response.

The same point needs to be made in relation to reservations. Here, we are told that the Wales Office is to review the existing list in discussion with Whitehall departments, and that each reservation will have to be “justified”. My officials held 15 meetings with UK Government officials between October and January and have provided a full and comprehensive view on each of the reservations to them. Again, no response.

If this process remains entirely internal to the UK Government, I can have little confidence that this won't be another Bill made for Wales, not with Wales.

Finally, I turn to the question of legal jurisdiction. Here, it is clear that the Secretary of State has rejected the unanimous view of this Assembly, and that of the Welsh Affairs Committee; that this is a matter meriting further examination. Instead, we are to have a working group “to consider what distinct arrangements are required to recognise Wales’ needs” within the existing jurisdiction. From the press announcement, it appears that the Welsh Government is to be represented on this group, but we've not yet been approached.

I would, however, like to make a more general point. I believe that the creation of a legal jurisdiction for Wales is an inevitable constitutional development within the United Kingdom. I have urged the Secretary of State to take a more far-sighted view and I would like to see the UK Government move towards this now, rather than under the pressure of events later on.

Llywydd, last October, in a statement to the Assembly about publication of the draft Bill, I said this:

“A Wales Bill should provide an opportunity to improve the way Wales is governed. But unless significant changes are made to make the Bill fit for purpose that opportunity will be lost. We will continue our constructive dialogue to help achieve that, and we look to the UK Government to respond accordingly in line with the needs of the people of Wales”.

Those words are as true today as they were six months ago. Much more needs to be done to secure a constitutional basis for the governance of Wales in the UK that meets the Secretary of State's own tests of clarity, coherence, stability, workability and sustainability.

William Graham AC
Cadeirydd
Y Pwyllgor Menter a Busnes
Cynulliad Cenedlaethol Cymru
Bae Caerdydd
CF99 1NA

Eich cyf:
Ein cyf: PO/RB/LJ

2 Mawrth 2016

Annwyl William

Yn ystod ei gyfarfod yr wythnos ddiwetha', trafododd y Pwyllgor Busnes bapur gan y Llywodraeth ynghylch Memorandwm Cydsyniad Deddfwriaethol Atodol (Memorandwm Rhif 5) mewn perthynas â Bil Menter Llywodraeth y DU.

Mae a wnelo'r Memorandwm Cydsyniad Deddfwriaethol Atodol â diwygiadau sy'n creu pwerau rhannu data rhwng Cyllid a Thollau Ei Mawrhydi (HMRC), yr Ysgrifennydd Gwladol a'r Gweinyddiaethau Datganoledig yng nghyd-destun swyddogaethau prentisiaethau. Cytunodd y Rheolwyr Busnes fod cynnwys y Memorandwm Cydsyniad Deddfwriaethol Atodol yn fwyaf perthnasol i'r Pwyllgor Menter a Busnes.

Oherwydd cyfyngiadau amser, gan fod diddymiad y Cynulliad yn agos, ac oherwydd bwriad y Llywodraeth i drefnu dadl ar y Cynnig Cydsyniad Deddfwriaethol ar gyfer 15 Mawrth, cytunodd y Pwyllgor Busnes i beidio â chyfeirio'r Memorandwm Cydsyniad Deddfwriaethol Atodol i Bwyllgor ar gyfer craffu, ond fe nododd y dylai'r Llywydd ysgrifennu at y Pwyllgor Menter a Busnes.

Croesewir gohebiaeth yn y Gymraeg neu Saesneg/We welcome correspondence in Welsh or English

Rwyf hefyd yn anfon copi o'r llythyr hwn at Gadeirydd y Pwyllgor Materion
Cyfansoddiadol a Deddfwriaethol i nodi penderfyniad y Pwyllgor Busnes.

Cofion gorau,



Y Fonesig Rosemary Butler AC
Llywydd
Cadeirydd y Pwyllgor Busnes

Mae cyfyngiadau ar y ddogfen hon

Eitem 6.2

Yn rhinwedd paragraff(au) ix o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon