

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Lleoliad:
Ystafell Bwyllgora 2 – y Senedd

Dyddiad:
Dydd Llun, 11 Mai 2015

Amser:
13.30

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



I gael rhagor o wybodaeth, cysylltwch a:

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Agenda

1 Cyflwyniad, ymddiheuriadau, dirprwyon a datgan buddiannau

2 Tystiolaeth yn ymwneud â'r Bil Rhentu Cartrefi (Cymru) (Tudalennau 1 – 51)

(Amser a ddynodwyd: 13.30)

Lesley Griffiths AC, y Gweinidog Cymunedau a Threchu Tlodi

Simon White, Llywodraeth Cymru

Neil Buffin, Llywodraeth Cymru

CLA(4)–12–05 – Papur 1 – Datganiad ar fwriad polisi

CLA(4)–12–15 – Papur briffio gan y Gwasanaeth Ymchwil

CLA(4)–12–15 – Nodyn Cyngor Cyfreithiol

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

Offerynnau'r Penderfyniad Negyddol

CLA527 – Rheoliadau Cynllun Taliad Sylfaenol a Chynlluniau Cymorth y Polisi Amaethyddol Cyffredin (Cymru) 2015 (Tudalennau 52 – 78)

Y weithdrefn negyddol; Fe'u gwnaed ar: 22 Ebrill 2015; Fe'u gosodwyd ar: 23 Ebrill 2015; Yn dod i rym ar: 14 Mai 2015.

CLA(4)–12–15 – Papur 2 – Adroddiad

CLA(4)–12–15 – Papur 3 – Rheoliadau

CLA(4)–12–15 – Papur 4 – Memorandwm Esboniadol

CLA528 Gorchymyn Ysgol Uwchradd y Dwyrain (Newid Amserau Sesiynau Ysgolion) 2015 (Tudalennau 79 – 88)

Y weithdrefn negyddol: Fe'i gwnaed ar: 20 Ebrill 2015; Fe'i gosodwyd ar: 24 Ebrill 2015; Yn dod i rym ar: 1 Mehefin 2015.

CLA(4)–12–15 – Papur 5 – Adroddiad

CLA(4)–12–15 – Papur 6 – Gorchymyn

CLA(4)–12–15 – Papur 7 – Memorandwm Esboniadol

4 Papurau i'w nodi (Tudalennau 89 – 93)

CLA(4)–12–15 – Papur 8 – Llythyr gan y Gweinidog Cyfoeth Naturiol mewn perthynas â CLA493 – Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2015

CLA(4)–12–15 – Papur 9 – Llythyr gan y Gweinidog Cyfoeth Naturiol mewn perthynas â CLA493 – Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2015

CLA(4)–12–15 – Papur 10 – Llythyr gan Gadeirydd y Pwyllgor Cyllid

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

(vi) lle mae'r Pwyllgor yn cyd-drafod cynnwys, casgliadau neu argymhellion adroddiad y mae'n bwriadu ei gyhoeddi; neu'n ymbaratoi i gael tystiolaeth gan unrhyw berson.

Trafod y Dystiolaeth Lafar

Deddfu yn y Pedwerydd Cynulliad – Prif Faterion (Tudalennau 94 – 152)

CLA(4)–12–15 – Papur 11 – Papur Esboniadol

CLA(4)–12–15 – Papur 12 – Materion Allweddol

CLA(4)–12–15 – Papur 13 – Crynodeb o'r Dystiolaeth Ysgrifenedig

CLA(4)–12–15 – Papur 14 – Canlyniadau'r Holiadur

Y wybodaeth ddiweddaraf – Bil Cymwysterau Cymru (Tudalennau 153 – 183)

CLA(4)–12–15 – Papur 15 – Y Pwyllgor Plant, Pobl Ifanc ac Addysg: Llythyr

Ymgynghori

CLA(4)–12–15 – Papur 16 – Papur cefndir

CLA(4)–12–15 – Papur 16 – Atodiad



Llywodraeth Cymru
Welsh Government

Renting Homes (Wales) Bill

Policy intent for subordinate legislation made under the Bill

February 2015

POLICY INTENT FOR PROPOSED SUBORDINATE LEGISLATION TO BE MADE UNDER THE RENTING HOMES (WALES) BILL 2015

1. This document describes the policy intention and direction proposed by the Welsh Ministers using the powers in the Renting Homes (Wales) Bill.
2. The Bill brings together and modernises the existing and complex legislation for renting a home into one new piece of legislation. In doing so, it aims to improve the arrangements. It proposes two main types of occupation contract, which will replace existing forms of occupation arrangements. The principal aspects of these new occupation contracts, the “key matters” and “fundamental terms”, will be set out on the face of the Bill. Supplementary terms will be set out in regulations made by the Welsh Ministers, with additional terms negotiated and agreed by landlords and contract-holders.
3. Key matters will cover, for example, the address of the property, the level of rent and the rental period. Fundamental terms set out the primary rights and responsibilities under the contract and will cover, for example, the requirement to provide a written statement of the contract and the process for ending the contract. Supplementary terms, which will be set out in regulations to be made by the Welsh Ministers, will relate to other rights and responsibilities that apply under the contract.
4. Because the Bill proposes to change, consolidate and update substantial and complex areas of housing legislation, it provides the Welsh Ministers with the powers necessary to implement such legislation. These powers will allow the Welsh Ministers to set out supplementary terms of occupation contracts, to prescribe matters of procedural detail and, importantly, to be able to respond promptly to the need for changes in such matters if circumstances change in the future. In most cases, the powers replicate those in the existing legislation, which is being replaced by the Bill. The powers are also closely aligned with the powers proposed by the Law Commission in its draft Bill (Volume 2 of its Renting Homes 2006 Final Report).
5. With the exception of the power to commence the remaining provisions of the Act, which is by way of order (section 254(2)), the powers within this Bill are regulation making powers. The Welsh Government has undertaken to consult on the regulations relating to supplementary provisions (section 23(1)). In relation to other subordinate legislation, the precise nature and extent of consultation will be determined by reference to the subject matter of the legislation.
6. This statement should be read in conjunction with the Bill and Explanatory Memorandum, as published on introduction.

REGULATIONS RELATING TO:	Bodies to be considered Community Landlords.
SECTION	Section 9(6)
DESCRIPTION OF THE POWER/REGULATION	
<p>Provides the Welsh Ministers with a power to amend section 9, that is, the list of “persons” (individuals, authorities or bodies) defined as “community landlords” under the Bill. This is to enable the Bill to reflect changes in housing practice in the future.</p>	
WHY THE REGULATION POWER IS REQUIRED	
<p>Future housing practice or legislation may require the definition or description of community landlords under the Bill to be changed. This is necessary as a person defined as a community landlord is required to issue a secure contract by default. For landlords other than community landlords, referred to as “private landlords” under the Bill, the standard contract is the default. This power will therefore enable the Welsh Ministers to ensure any wider changes in the law regarding the provision of social rented housing are reflected in the definition of a community landlord. For example, section 80(3) of the Housing and Regeneration Act 2008 changed, in England, the description “registered social landlord” to “private registered provider of social housing”. Since some social housing in Wales is provided by English-based providers, any further such change will need to be reflected in the definition of community landlord under the Bill. The affirmative procedure is appropriate for this power as the definition of what does or does not constitute a community landlord under the Bill has a significant impact on the rights of those who rent their home, as it will determine their right to either a secure or standard contract.</p>	
POLICY INTENTION OF THE REGULATIONS	
<p>The policy intention of the power is to ensure landlords who might be required to issue secure contracts in the future are included within the definition of a community landlord. There is the possibility that new providers of social housing may need to be defined as community landlords. In such a scenario, we would wish to act swiftly to ensure individuals are provided with secure contracts as soon as possible.</p>	

REGULATIONS RELATING TO:	Determination of fundamental provisions
SECTION:	Section 22(1)&(2)
DESCRIPTION OF THE POWER/REGULATION	
<p>Section 22(1) provides the Welsh Ministers with a power to make regulations as to whether a provision made by other legislation is, or is not, a “fundamental provision” of an occupation contract. Section 22(2) enables the Welsh Ministers to make regulations regarding whether a fundamental provision must be incorporated as a fundamental term in an occupation contract and, if it must be incorporated, whether it can be modified. Where such regulations make changes to the Renting Homes (Wales) Act they will be subject to the affirmative procedure. Otherwise the negative procedure would apply.</p>	
WHY THE REGULATION POWER IS REQUIRED	
<p>Allows the Welsh Ministers to ensure fundamental provisions reflect future changes in legislation and housing practice. Should future housing legislation require a matter to be included in an occupation contract this power will enable that to be achieved in a timely manner.</p>	
POLICY INTENTION OF THE REGULATIONS	
<p>The policy intention is to provide the ability to react swiftly to future legislation which affects Renting Homes occupation contracts. The ability to incorporate future housing legislation which might affect occupation contracts is essential for the contracts to remain effective.</p> <p>The power under Section 22(2) complements the power provided under 22(1). For example, if future legislation requires the creation of a new fundamental provision, it is essential that determination over its incorporation into occupation contracts, and whether it can be subject to modification, is also provided for.</p>	

REGULATIONS RELATING TO:	Determination of supplementary provisions
SECTION:	Section 23(1)
DESCRIPTION OF THE POWER/REGULATION	
Creation of supplementary provisions to be incorporated as terms of occupation contracts.	
WHY THE REGULATION POWER IS REQUIRED	
<p>In line with the Law Commission’s recommendations, while the essential rights and obligations will be represented by fundamental provisions, other more practical matters are dealt with through supplementary provisions prescribed by the Welsh Ministers in regulations. Supplementary provisions will be incorporated into occupation contracts as supplementary terms.</p> <p>Examples of supplementary terms would be a requirement for the contract-holder to pay the council tax, to maintain a garden, take care of the dwelling and check smoke alarms are working and return keys to the landlord at the end of the contract. The landlord and contract-holder are free to agree that a supplementary provision should not be incorporated as a term or be incorporated with modifications.</p> <p>Prescribing supplementary provisions through regulations will enable the Welsh Ministers to ensure occupation contracts remain current and respond to changes to future legislation and housing practice. The power requires the Welsh Ministers to consult stakeholders before making regulations determining supplementary provisions.</p>	
POLICY INTENTION OF THE REGULATIONS	
<p>The policy intention is to ensure the terms of occupation contracts remain current and reflect changes in housing practice. For example, if there was to be a substantial alteration to the funding of local government, then the contractual term requiring the contract-holder to pay the “council tax” may need to be changed. It would not be appropriate for such a change to require the making of primary legislation. The intention of the requirement to consult is to ensure the proposed supplementary provisions accurately describe the matter to be addressed and are readily understandable.</p>	

REGULATIONS RELATING TO:	Prescribing model written statements of contracts
SECTION:	Section 29(1)
DESCRIPTION OF THE POWER/REGULATION	
<p>In line with the Law Commission's recommendations, this power enables the Welsh Ministers to prescribe model written statements of contracts for use by landlords and contract-holders as the basis for the occupation contracts provided for under the Bill.</p>	
WHY THE REGULATION POWER IS REQUIRED	
<p>The Bill requires landlords to issue written statements of the occupation contract within 14 days of the contract-holder occupying the dwelling (this allows for initial occupation on the basis of a verbal contract only, for example in response to an emergency). The written statement must include the relevant key matters, fundamental terms, supplementary terms as well as any additional terms.</p> <p>The power to issue model written statements of contracts will assist landlords in complying with their obligations. There are a number of model written statements of contracts which it is proposed will be prescribed under this power:</p> <ul style="list-style-type: none"> • Secure contract - community landlord • Fixed term standard contract (less than seven years) • Fixed term standard contract (seven years or more) • Periodic standard contract • Introductory standard contract • Prohibited conduct standard contract • Supported standard contract <p>However, these will need to be updated in a timely manner if changes are made to a supplementary term as a consequence of regulations made under section 23(1).</p>	
POLICY INTENTION OF THE REGULATIONS	
<p>The intention is to ensure model written statements of contracts can be readily updated as required. This will assist landlords in complying with their obligations under the new legislation.</p>	

REGULATIONS RELATING TO:	Explanatory information which must be contained in written statements
SECTION:	Section 32(4)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to specify explanatory information which must be contained in written statements.	
WHY THE REGULATION POWER IS REQUIRED	
<p>The fundamental and supplementary terms in occupation contracts will be drafted as clearly as possible. However, it is necessary for the written statement to include explanatory information about any matters that are prescribed to assist the reader. For example, the illustrative model contracts prepared by the Law Commission included a note explaining the contract-holder did not need to pay a day's rent for each day the landlord was late in providing the written statement of contract. Explanatory information may also be used to sign-post the reader to sources of other relevant information or advice. Such explanatory notes will vary over time, not least as a consequence of changes to supplementary terms as a consequence of the power in section 23(1).</p>	
POLICY INTENTION OF THE REGULATIONS	
The policy intention is to help ensure landlords and contract-holders understand the terms of the occupation contract.	

REGULATIONS RELATING TO:	Required information relating to deposit schemes
SECTION:	Section 45(3)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to specify what information must be given to the contract-holder (or any person who paid the deposit on his or her behalf) to comply with section 45(2)(b) regarding deposit schemes.	
WHY THE REGULATION POWER IS REQUIRED	
<p>This power reflects current arrangements in respect of tenancy deposits and will enable the Welsh Ministers to update the required information to be provided following changes in legislation and housing practice. The current Housing (Tenancy Deposits) (Prescribed Information) Order 2007 is an example of the kind of information that will be required, and includes:</p> <ul style="list-style-type: none"> • the amount of the deposit paid; • the address of the property to which the tenancy relates; • the name, address, telephone number, and any e-mail address or fax number of the landlord; and • the circumstances when all or part of the deposit may be retained by the landlord, by reference to the terms of the tenancy. 	
POLICY INTENTION OF THE REGULATIONS	
The policy intention is to ensure the information which must be provided to a contract-holder regarding the safeguarding of his or her deposit can be readily updated..	

REGULATIONS RELATING TO:	Prohibited conduct definition
SECTION:	Section 56
DESCRIPTION OF THE POWER/REGULATION	
<p>This power enables the Welsh Ministers to amend section 55 in respect of what constitutes anti-social behaviour and other prohibited conduct.</p>	
WHY THE REGULATION POWER IS REQUIRED	
<p>This power was recommended by the Law Commission. It will allow the definition of prohibited conduct to be swiftly updated by the Welsh Ministers, ensuring new forms of anti-social behaviour, domestic abuse or other negative behaviours can be captured by the definition.</p>	
POLICY INTENTION OF THE REGULATIONS	
<p>The intention here is to provide the Welsh Ministers with the ability to react in a timely manner to emerging forms of anti-social behaviour, domestic abuse or other negative behaviours not falling within the current definition. The nature of such behaviours can evolve rapidly and it is important for occupation contracts to be capable of being updated accordingly, thus remaining an effective tool against current and future forms of anti-social behaviour and domestic abuse.</p>	

REGULATIONS RELATING TO:	Sub-occupation and the variation of time periods relating to exclusion of contract-holder by sub-holder after abandonment
SECTION:	Section 68
DESCRIPTION OF THE POWER/REGULATION	
<p>Allows the variation of time periods in sections 66 and 67. Section 66(11) provides for a four-week warning period for the contract-holder, during which the sub-holder is required to make inquiries to be satisfied the contract-holder no longer considers himself or herself to be a party to the head contract and the sub-occupation contract. Section 67(2) provides for variation of the six-month period during which the contract-holder can apply for a remedy to the court on the grounds he or she had not abandoned the contracts and there is good reason for a failure to respond or the sub-holder had not acted in accordance with the requirements.</p>	
WHY THE REGULATION POWER IS REQUIRED	
<p>The provisions in the Bill are aligned with the recommendations of the Law Commission. However, as an entirely new area of law, it is considered important to have the ability to vary the relevant time periods in the light of experience.</p>	
POLICY INTENTION OF THE REGULATIONS	
<p>The policy intention here is, through the monitoring of implementation, to ensure both the four-week warning period and six-month remedy period are appropriate. It is important for the Welsh Ministers to have the ability to act swiftly should changes be necessary.</p>	

REGULATIONS RELATING TO:	Fitness for human habitation
SECTION:	Section 94
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to prescribe matters or circumstances to consider in determining whether premises are fit for human habitation.	
WHY THE REGULATION POWER IS REQUIRED	
These matters will be prescriptive and detailed in nature and are better suited to regulations than the face of the Bill.	
POLICY INTENTION OF THE REGULATIONS	
The intention here is to set out the matters to be considered in determining whether a dwelling is fit for human habitation. This may include referring to existing guidance on the 29 hazards listed under the Housing Health and Safety Rating System, which include excess cold, mould, carbon monoxide, pests, fire and electrical hazards. This power will enable the Welsh Ministers to specify in regulations additional matters which are considered to make a dwelling unfit for habitation. In exercising the power under section 94(1), the Welsh Ministers may prescribe matters and circumstances by reference to any regulations made under section 2 of the Housing Act 2004. The power will ensure all such guidance can be kept up to date.	

REGULATIONS RELATING TO:	Notice periods in relation to withdrawal from the contract by joint contract-holders
SECTION:	Sections 112 and 131
DESCRIPTION OF THE POWER/REGULATION	
This power enables the Welsh Ministers to prescribe supplementary provisions specifying a minimum period of notice required to be given by a joint contract-holder who wishes to withdraw from either a secure or standard contract (sections 112 and 131 respectively).	
WHY THE REGULATION POWER IS REQUIRED	
In line with the Law Commission's recommendations, this will enable the notice periods to be altered should this prove necessary in the light of experience.	
POLICY INTENTION OF THE REGULATIONS	
The policy intention here is, through the monitoring of implementation, to ensure the required notice period is appropriate. It is important for the Welsh Ministers to have the ability to act swiftly should change be necessary.	
REGULATIONS RELATING TO:	Landlord's review of a decision to give notice requiring possession under introductory and prohibited conduct standard contracts

SECTION:	Section 199(5)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to specify the procedure to be followed in relation to a landlord's review of a decision to give a notice requiring possession.	
WHY THE REGULATION POWER IS REQUIRED	
To set the detailed requirements and procedure for the review of the landlord's decision. The regulations will be administrative in nature and are better suited to subordinate legislation.	
POLICY INTENTION OF THE REGULATIONS	
The intention here reflects existing arrangements in relation to landlord reviews, for example under section 125B of the Housing Act 1996 which provides a regulation making power in relation to the procedure to be followed in connection with reviewing a landlord's decision to extend an introductory tenancy. Regulations here will largely be administrative, for example setting out requirements in relation to the person(s) to adjudicate, the right to an oral hearing, and permitted attendees/representatives.	

REGULATIONS RELATING TO:	Safeguarding of property remaining in the dwelling following abandonment
SECTION:	Section 217(1)
DESCRIPTION OF THE POWER/REGULATION	
Enables the Welsh Ministers to make provision relating to the safeguarding of property remaining in the dwelling of an abandoned property when a contract ends under section 216.	
WHY THE REGULATION POWER IS REQUIRED	
The regulations will be administrative in nature and are appropriate for subordinate legislation.	
POLICY INTENTION OF THE REGULATIONS	
The intention here is to set out within the regulations the proper treatment of the former contract-holder's property following possession under the abandonment procedure. Any regulations might, for example, set out the time periods for which such property must be kept and how the proceeds of sale of any property may be treated by the landlord in offsetting any monies owed by the contract-holder.	
REGULATIONS RELATING TO:	Relevant periods of time in relation to abandonment by the contract-holder.
SECTION:	Section 219
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to amend the relevant time periods under sections 216 and 218 in relation to abandonment.	

WHY THE REGULATION POWER IS REQUIRED

Allows the variation of time periods for the purposes of sections 216 and 218. Section 216 provides for a four-week warning period for the contract-holder, during which the landlord is required to make inquiries to be satisfied the contract-holder has abandoned the dwelling. Section 218 provides for variation of the six-month period during which the contract-holder can apply for a remedy to the court on the grounds he or she had not abandoned the dwelling and there is good reason for a failure to respond or the landlord had not acted in accordance with the requirements. It will be important to monitor the time periods with regard to abandonment, ensuring that the stated periods work from both the perspective of landlord and contract-holder.

POLICY INTENTION OF THE REGULATIONS

The policy intention here is to ensure both the four-week warning period and six-month remedy period are appropriate. It is important for the Welsh Ministers to have the ability to act swiftly should changes be necessary. The appropriateness of these periods will be monitored as part of the evaluation of the Bill.

REGULATIONS RELATING TO:	Relevant periods of time in relation to the exclusion of joint contract-holders.
SECTION:	Section 225
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to amend relevant periods of time in relation to the exclusion of joint contract-holders under sections 221, 222, 223 and 224.	
WHY THE REGULATION POWER IS REQUIRED	
It will be important to monitor the time periods with regard to joint contract-holder exclusion and termination of warning notices, given by both landlord and joint contract-holders.	
POLICY INTENTION OF THE REGULATIONS	
The intention here is to monitor the implementation of such warning notice periods to ensure they remain fair for both landlord and joint contract-holder. It is considered the periods as they currently stand are fair to both landlord and contract-holder but it is important that the ability to act swiftly is maintained in such an important area.	

REGULATIONS RELATING TO:	Prescription of the form for notices and documents required
SECTION:	Section 233(3)
DESCRIPTION OF THE POWER/REGULATION	
Enables the Welsh Ministers to prescribe the form for notices and documents required or authorised under the Bill.	
WHY THE REGULATION POWER IS REQUIRED	
Various provisions in the Bill require notices to be given by either landlord or contract-holder. To assist both parties with issuing notices which comply with the requirements this power enables the Welsh Ministers to prescribe the form of these notices. These will also require periodic adjustment and updating to remain current.	
POLICY INTENTION OF THE REGULATIONS	
The intention here is to facilitate the contractual relationship between the parties to an occupation contract by making available template notices in the correct form, which may change over time as a consequence of other changes, such as applicable time periods.	

REGULATIONS RELATING TO:	Supplemental, incidental, consequential, transitory, transitional or saving provision.
SECTION:	Section 252(1)

DESCRIPTION OF THE POWER/REGULATION
Allows the Welsh Ministers to make supplemental, incidental, consequential, transitory, transitional or saving provision.
WHY THE REGULATION POWER IS REQUIRED
The power is needed for the purpose of giving full effect to any provision of the Renting Homes (Wales) Act or in consequence of any such provision.
POLICY INTENTION OF THE REGULATIONS
To enable effective implementation.

REGULATIONS RELATING TO:	Consequential amendments, modifications, repeals and revocations of, an enactment other than a provision of this Act.
SECTION:	Section 253(2)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to make consequential amendments to, and modifications, repeals and revocations of, an enactment other than a provision of this Act.	
WHY THE REGULATION POWER IS REQUIRED	
The power is needed to enable consequential changes, etc. to be made to existing legislation to give full effect to the provisions of the Act.	
POLICY INTENTION OF THE REGULATIONS	
To enable effective implementation.	

REGULATIONS RELATING TO:	Commencement
SECTION:	Section 254(2)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to provide for commencement of the remaining provisions of the Act.	
WHY THE REGULATION POWER IS REQUIRED	
Part 11 of the Bill comes into force on the day on which the Act is passed. The remaining provisions of the Act come into force on a day appointed by the Welsh Ministers by order. This power is necessary to bring those provisions that do not come into force upon passing of the Act into force in a planned manner to ensure the Act is brought fully into force.	
POLICY INTENTION OF THE REGULATIONS	
To enable effective implementation.	

REGULATIONS RELATING TO:	Supported housing, obtaining consent for notice of extension
SECTION:	Schedule 2 Paragraph 15(10)
DESCRIPTION OF THE POWER/REGULATION	
This enables the Welsh Ministers to make regulations relating to paragraph 15(5), which prevents landlords from giving a notice of extension without a local authority's consent, and in particular the procedure for obtaining consent.	
WHY THE REGULATION POWER IS REQUIRED	
To set out the detailed procedure for obtaining local authority consent to issue a notice of extension. The regulations will be administrative in nature and are better suited to subordinate legislation.	
POLICY INTENTION OF THE REGULATIONS	
The intention here is to set out the procedures to be followed in obtaining local authority consent to extend a supported housing contract. Such regulations will be similar to existing regulations around landlord reviews, for example those issued under section 125B of the Housing Act 1996. These regulations will be administrative and will ensure correct procedure is followed in the granting of local authority consent. Regulations could include, for example, ensuring the appropriate person is making the decision to grant consent.	
REGULATIONS RELATING TO:	Schedule 2 amendments
SECTION:	Schedule 2 Paragraph 17
DESCRIPTION OF THE POWER/REGULATION	

Schedule 2 sets out types of tenancies and licences which would not normally be an occupation contract under the Bill (exceptions to section 7). Paragraph 17 of Schedule 2 provides a power for the Welsh Ministers to amend Schedule 2.

WHY THE REGULATION POWER IS REQUIRED

In line with the Law Commission's recommendations, this power is required to enable the Welsh Ministers to amend Schedule 2 to reflect changes in the provision of housing.

POLICY INTENTION OF THE REGULATIONS

The policy intention is to ensure the list of excluded tenancies and licences can be updated in a timely manner.

REGULATIONS RELATING TO:	Prescription of designated course
SECTION:	Schedule 3 Paragraph 10(2)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to prescribe a "designated course" for the purposes of this paragraph.	
WHY THE REGULATION POWER IS REQUIRED	
These regulations will be wholly administrative and appropriate for subordinate legislation.	
POLICY INTENTION OF THE REGULATIONS	
The intention is to ensure that designated courses reflect any changes within education legislation, allowing for the inclusion (or removal) of relevant courses. It will be important to act in a timely manner to ensure the appropriate form of occupation contract is issued.	

REGULATIONS RELATING TO:	Determination of key workers
SECTION:	Schedule 3 Paragraph 15(3)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to make regulations on the determination of key workers for the purposes of this paragraph.	
WHY THE REGULATION POWER IS REQUIRED	
Regulations may set out whether a contract holder is a key worker. This is to ensure community landlords are able to appropriately house key workers under a standard contract, rather than a secure contract.	
POLICY INTENTION OF THE REGULATIONS	
The policy intention is to ensure the definition of what constitutes a key worker remains current.	

REGULATIONS RELATING TO:	Schedule 3 amendments
SECTION:	Schedule 3 Paragraph 17
DESCRIPTION OF THE POWER/REGULATION	
Schedule 3 sets out those circumstances in which community landlords will not be required to issue a secure contract, for example for introductory purposes, the provision of accommodation to key workers or the provision of accommodation to homeless persons. The power enables the Welsh Ministers to amend Schedule 3.	
WHY THE REGULATION POWER IS REQUIRED	
In line with the Law Commission's recommendations, this power is required to enable the Welsh Ministers to amend Schedule 3 to reflect changes in the provision of housing.	
POLICY INTENTION OF THE REGULATIONS	
The policy intention is to ensure the list of exceptions under which community landlords are not required to issue a secure contract can be updated in a timely manner.	

REGULATIONS RELATING TO:	Power to amend period required for a notice of extension with regard to introductory standard contracts
SECTION:	Schedule 4, Paragraph 3(7)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to amend the time within which a notice of extension must be given to a contract-holder, and provides that the power in section 253(2) includes power to make consequential amendments to Schedule 4.	
WHY THE REGULATION POWER IS REQUIRED	
This power is required to ensure the period within which a notice of extension must be given remains appropriate.	
POLICY INTENTION OF THE REGULATIONS	
The policy intention is to ensure the notice period can be amended in a timely manner should this prove necessary.	

REGULATIONS RELATING TO:	Procedure to be followed in connection review of a landlord's decision to extend the introductory period
SECTION:	Schedule 4, Paragraph 4(7)
DESCRIPTION OF THE POWER/REGULATION	
Enables the Welsh Ministers to specify the procedure to be followed in relation to a landlord's review of a decision to give notice of extension of an introductory standard contract.	
WHY THE REGULATION POWER IS REQUIRED	
To prescribe the procedure to be followed for the review of a landlord's decision to extend the introductory period. This reflects existing legislation in section 125B of the Housing Act 1996, which provides a regulation making power in relation to the procedure to be followed in connection with a landlord's review under section 123B of the 1996 Act, in extending an introductory tenancy. The regulations may, for example, set out details in relation to the persons to adjudicate, the right to an oral hearing, permitted attendees, postponement and adjournment. The regulations will be administrative in nature and are better suited to subordinate legislation.	
POLICY INTENTION OF THE REGULATIONS	
The policy intention is to ensure the procedures relating to the review of a landlord's decision are kept up to date, reflecting changing housing practice.	
REGULATIONS RELATING TO:	Conferring powers and imposing duties on scheme administrators with regard to deposit schemes
SECTION:	Schedule 5 Paragraph 1(6)

DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to impose powers and duties on scheme administrators with regard to deposit schemes.	
WHY THE REGULATION POWER IS REQUIRED	
This carries forward an existing power under section 212 of Housing Act 2004. The regulations will be administrative in nature making them appropriate for subordinate legislation.	
POLICY INTENTION OF THE REGULATIONS	
The intention here is to ensure the correct operation of the deposit scheme. Regulations may, for example, set out details regarding how deposits must be administered.	

REGULATIONS RELATING TO:	Power to change the notice period for extending prohibited standard contracts
SECTION:	Schedule 7 Paragraph 4(7)
DESCRIPTION OF THE POWER/REGULATION	
Allows the Welsh Ministers to amend the time within which a notice of extension must be given to a contract-holder in the probation period, and provides that the power in section 253(2) includes power to make consequential amendments to Schedule 7.	
WHY THE REGULATION POWER IS REQUIRED	
This power is required to ensure the period within which a notice of extension must be given remains appropriate.	
POLICY INTENTION OF THE REGULATIONS	
The policy intention is to ensure the notice period can be amended in a timely manner should this prove necessary.	

REGULATIONS RELATING TO:	Prescription for the procedure to be followed in reviewing a landlord's decision to extend the prohibited standard contract
SECTION:	Schedule 7 Paragraph 5(7)
DESCRIPTION OF THE POWER/REGULATION	
Enables the Welsh Ministers to specify the procedure to be followed in relation to a landlord's review of a decision to give notice of extension of a prohibited conduct standard contract.	
WHY THE REGULATION POWER IS REQUIRED	
Allows the Welsh Ministers to specify the procedure to be followed in relation to a landlord's review of a decision to give notice of extension.	
POLICY INTENTION OF THE REGULATIONS	
To set out detailed procedures for the review of a landlord's decision. This reflects existing legislation around landlord reviews, for example section 125B of the Housing Act 1996, which provides for regulation making powers in relation to a landlord review in extending an introductory tenancy. The regulations may, for example, set out details in relation to the persons to adjudicate, the right to an oral hearing, permitted attendees, postponement and adjournment. The regulations will be administrative in nature and are better suited to subordinate legislation.	

REGULATIONS RELATING TO:	Rent assessment with regard to certain converted contracts
SECTION:	Schedule 11 Paragraph 16(2)
DESCRIPTION OF THE POWER/REGULATION	
<p>The Welsh Ministers are required to make provision enabling the contract-holder under a relevant converted contract, following receipt of a notice under section 104 or 123, to apply to a prescribed person(s) for a determination of the rent for the dwelling. The rent is to be determined in accordance with prescribed assumptions and will be the rent for the dwelling under the contract (unless the landlord and contract-holder agree otherwise). Relevant converted contracts are those to which section 13 of Housing Act 1988 applies (increases of rent under assured periodic tenancies).</p>	
WHY THE REGULATION POWER IS REQUIRED	
<p>This requires the Welsh Ministers to make regulations in respect of application to a prescribed person for determination of rent and for the rent to be determined in accordance with prescribed assumptions.</p>	
POLICY INTENTION OF THE REGULATIONS	
<p>The policy intention is to preserve an existing right under section 13 of Housing Act 1988. In 2013-14, six such applications were heard by a Rent Assessment Committee of the Residential Property Tribunal for Wales.</p>	

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Eitem 3.1

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Adroddiad drafft

CLA

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

Mae'r Rheoliadau hyn yn gwneud darpariaeth, o ran Cymru, ar gyfer gweinyddu Rheoliad (EU) Rhif 1307/2013 Senedd Ewrop a'r Cyngor sy'n sefydlu'r rheolau ar gyfer taliadau uniongyrchol i ffermwyr o dan gynlluniau cymorth o fewn fframwaith y polisi amaethyddol cyffredin (OJ Rhif L 347, 20.12.2013, t. 608) ("y Rheoliad Taliadau Uniongyrchol") a'r tri o Reoliadau cysylltiedig eraill yr UE y cyfeirir atynt yn rheoliad 2(1).

Gweithdrefn: Negyddol

Materion technegol: craffu

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

1. Mae rheoliad 17 yn honni ei fod yn diddymu Rheoliadau Cynllun Taliad Sengl a Chynlluniau Cymorth y Polisi Amaethyddol Cyffredin (Cymru) 2010 a Rheoliadau Cynllun Taliad Sengl a Chynlluniau Cymorth y Polisi Amaethyddol Cyffredin (Cymru) (Diwygio) 2012. Diddymwyd y Rheoliadau hynny'n flaenorol gan Reoliadau'r Polisi Amaethyddol Cyffredin (System Integredig Gweinyddu a Rheoli a Gorfodi a Thrawsgydymffurfio) (Cymru) 2014 ('Rheoliadau 2014'). Mae Rheoliad 17 a Rheoliadau 2014 yn cynnwys darpariaethau arbed, ond nid yw'n eglur beth yw effaith gyfunol dirymiad dwbl a dwy gyfres o ddarpariaethau adfer. [Mae angen eglurhad pellach o ran Rheol Sefydlog 21.2 (v) a (vi) - oherwydd drafftio diffygiol.]

Rhagoriaethau: Craffu

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

2. Daw'r Rheoliadau hyn i rym ar 14 Mai 2015 ac mae rheoliad 10(1) yn ei gwneud yn ofynnol i geisiadau gael eu cyflwyno i Weinidogion Cymru erbyn 15 Mai. Nid yw'r Rheoliadau na'r Memorandwm Esboniadol yn egluro sut y disgwylir i ymgeiswyr gydymffurfio â'r terfyn amser cyfyngedig iawn hwn. Dylai'r Memorandwm Esboniadol fod wedi egluro pa gamau a gymerwyd gan Weinidogion Cymru cyn y daw'r Rheoliadau i rym, er mwyn galluogi ceisiadau i gael eu cyflwyno erbyn y dyddiad cau hwnnw. [Rheol Sefydlog 21.3 (ii) - ei fod o bwysigrwydd cyhoeddus sy'n debygol o fod o ddiddordeb i'r Cynulliad.]

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Mai 2015

2015 Rhif 1252 (Cy. 84)

AMAETHYDDIAETH, CYMRU

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

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn gwneud darpariaeth, o ran Cymru, ar gyfer gweinyddu Rheoliad (EU) Rhif 1307/2013 Senedd Ewrop a'r Cyngor sy'n sefydlu'r rheolau ar gyfer taliadau uniongyrchol i ffermwyr o dan gynlluniau cymorth o fewn fframwaith y polisi amaethyddol cyffredin (OJ Rhif L 347, 20.12.2013, t. 608) ("y Rheoliad Taliadau Uniongyrchol") a'r tri o Reoliadau cysylltiedig eraill yr UE y cyfeirir atynt yn rheoliad 2(1).

Mae rheoliad 3 yn pennu isafswm arwynebedd cymwys daliad y caniateir rhoi taliadau uniongyrchol i ffermwr mewn cysylltiad ag ef.

Mae rheoliad 4 yn pennu'r dyddiad pan fo'n rhaid i barseli a ddefnyddir fel y sail ar gyfer hawliad o dan y cynllun taliad sylfaenol fod ar gael i ffermwyr.

Mae rheoliad 5 yn pennu'r gweithgareddau y mae'n rhaid i ffermwr eu cyflawni er mwyn cynnal ardal amaethyddol mewn cyflwr addas i bori neu drin y tir.

Mae rheoliad 6 yn pennu isafswm y gweithgarwch amaethyddol y mae'n ofynnol ei gyflawni ar dir a gedwir yn naturiol mewn cyflwr addas i bori neu drin y tir.

Mae rheoliad 7 yn dynodi'r coed coedlan cylchdro byr sy'n gymwys o dan y cynllun taliad sengl, ac yn gosod y cylch cynaeafu uchaf.

Mae rheoliad 8 yn darparu ar ba sail y mae'n rhaid cyfrifo cynnydd mewn taliadau uniongyrchol i ffermwyr cymwys sy'n 40 oed neu'n iau ac sy'n cymryd rhan yn y cynlluniau ffermwyr ifanc.

Mae rheoliad 9 yn pennu'r trothwy lle na fydd gweithgareddau amaethyddol yn cael eu hystyried yn ddi-nod, yn nodi sut y mae ffermwr i ddangos mai arfer gweithgarwch amaethyddol yw ei brif fusnes ac yn darparu esemptiad i ffermwr a dderbyniodd EUR 5,000 neu lai o daliadau uniongyrchol yn y flwyddyn flaenorol rhag yr anghymhwysiad i gael taliadau uniongyrchol.

Mae rheoliad 10 yn nodi sut y caiff hawliau i daliadau o dan y cynllun taliad sylfaenol eu dyrannu ac yn pennu ar ba ddyddiad y mae'n rhaid i nifer yr hectarau cymwys fod ar gael i ffermwyr.

Mae rheoliad 11 yn nodi sut y caniateir i hawliau i daliadau o dan y cynllun taliad sylfaenol gael eu trosglwyddo drwy eu gwerthu neu eu lesio ac yn gwneud darpariaeth ynghylch o fewn pa gyfnod y mae'n rhaid i drosglwyddwr hysbysu Gweinidogion Cymru fod yr hawliau i daliadau wedi eu trosglwyddo.

Mae rheoliad 12 yn darparu mai o fewn 30 o ddiwrnodau gan ddechrau â'r diwrnod cyntaf ar ôl dyddiad y trosglwyddiad, yw'r cyfnod y mae'n rhaid i drosglwyddai daliad hysbysu Gweinidogion Cymru am y trosglwyddiad a gofyn am daliad.

Mae rheoliad 13 yn nodi'r gweithgareddau hynny heblaw amaethyddiaeth a ganiateir ar ardal amaethyddol am gyfnod o hyd at 28 o ddiwrnodau ym mhob blwyddyn galendr ac yn dynodi'r ardaloedd hynny a ystyrir fel rhai a ddefnyddir yn bennaf at ddibenion heblaw amaethyddiaeth ac sydd felly yn anghymwys at ddibenion y cynllun taliad sylfaenol.

Mae rheoliadau 14 i 16 yn gwneud darpariaeth sy'n ymwneud â chydran "wyrddu" y taliadau uniongyrchol, sy'n cysylltu taliadau ag arferion amaethyddol sy'n llesol i'r hinsawdd a'r amgylchedd. Mae rheoliad 14 yn nodi'r cyfnod sydd i'w ystyried at ddibenion penderfynu a gydymffurfiwyd â gofynion i dyfu amrywiaeth o gnydau. Mae rheoliad 15 yn darparu ar gyfer dynodi glaswelltiroedd parhaol sy'n amgylcheddol sensitif. Mae rheoliad 16 yn nodi'r pum ardal sydd i fod yn Ardaloedd â Ffocws Ecolegol ("AFfEau"), ac yn manylu ar gwmpas yr AFfEau o ran tir braenar, nodweddion tirwedd, ardaloedd coedlan cylchdro byr, ardaloedd coedwigaeth ac ardaloedd â chnydau sy'n bachu nitrogen.

Mae rheoliad 17 yn dirymu Rheoliadau sy'n gwneud darpariaeth ar gyfer gweinyddu'r Cynllun Taliad Sengl a'r Cynlluniau Cymorth Ewropeaidd o ran Cymru, ond gyda darpariaeth arbed er mwyn parhau i gymhwyso Rheoliadau Cynllun Taliad Sengl a Chynlluniau Cymorth y Polisi Amaethyddol Cyffredin (Cymru) 2010 (O.S. 2010/1892 (Cy. 185)) mewn cysylltiad â cheisiadau am gymorth sy'n ymwneud â blynyddoedd hawlio cyn 2015.

Paratowyd Asesiad Effaith Rheoleiddiol o effeithiau'r Rheoliadau hyn ar gostau i fusnesau, mewn perthynas â busnesau fferm yng Nghymru. Gellir cael copïau ohono oddi wrth yr Adran Cyfoeth Naturiol, Llywodraeth Cymru, Parc Cathays, Caerdydd CF10 3NQ.

2015 Rhif 1252 (Cy. 84)

AMAETHYDDIAETH, CYMRU

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

Gwnaed 22 Ebrill 2015

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 23 Ebrill 2015

Yn dod i rym 14 Mai 2015

Mae Gweinidogion Cymru wedi eu dynodi(1) at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(2) o ran polisi 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 gyfeiriadau 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 Cynllun Taliad Sylfaenol a Chynlluniau Cymorth y Polisi Amaethyddol Cyffredin (Cymru) 2015.

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

(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.

(3) Daw'r Rheoliadau hyn i rym ar 14 Mai 2015.

Dehongli

2.—(1) Yn y Rheoliadau hyn—

ystyr “cais sengl” (“*single application*”) yw cais am daliadau uniongyrchol mewn perthynas â chynlluniau cymorth sy'n seiliedig ar arwynebedd;

ystyr “chwyn goresgynnol estron” (“*non-native invasive weeds*”) yw'r canlynol—

Clymog Japan (*Fallopia japonica*)

Efwr enfawr (*Heracleum mantegazzianum*)

Jac y neidiwr (*Impatiens glandulifera*)

Rhododendron wyllt (*Rhododendron ponticum*);

mae i “glaswelltir parhaol” yr un ystyr ag a roddir i “permanent grassland” yn Erthygl 4(1)(h) o'r Rheoliad Taliadau Uniongyrchol ond mae hefyd yn cynnwys tir lle bydd llwyni bychan brodorol gan gynnwys y rheini a berthyn i deulu Ericaceae (grugoedd) a'r rhywogaeth *Ulex gallii* (eithin mân) ac/neu rhywogaethau brodorol yn nheuluoedd Juncaceae (brwyn) a Cyperaceae (hesg) mwyaf niferus a gellir ei bori;

ystyr “y Rheoliadau Ewropeaidd” (“*the European Regulations*”) yw—

- (a) y Rheoliad Taliadau Uniongyrchol;
- (b) y Rheoliad Taliadau Uniongyrchol Dirprwyedig;
- (c) y Rheoliad Gweithredu Taliadau Uniongyrchol; a
- (d) y Rheoliad Gweithredu Llorweddol;

ystyr “y Rheoliad Gweithredu Llorweddol” (“*the Horizontal Implementing Regulation*”) yw Rheoliad Gweithredu'r Comisiwn (EU) Rhif 809/2014 sy'n gosod rheolau ar gyfer cymhwyso Rheoliad (EU) Rhif 1306/2013 Senedd Ewrop a'r Cyngor o ran y system weinyddu a rheoli integredig, mesurau datblygu gwledig a thrawsgydymffurfio⁽¹⁾;

ystyr “y Rheoliad Gweithredu Taliadau Uniongyrchol” (“*the Direct Payments Implementing Regulation*”) yw Rheoliad Gweithredu'r Comisiwn (EU) Rhif 641/2014 sy'n gosod rheolau ar gyfer cymhwyso'r Rheoliad Taliadau Uniongyrchol⁽²⁾;

ystyr “y Rheoliad Taliadau Uniongyrchol” (“*the Direct Payments Regulation*”) yw Rheoliad (EU) Rhif 1307/2013 Senedd Ewrop a'r Cyngor sy'n sefydlu rheolau ar gyfer taliadau uniongyrchol i

(1) OJ Rhif L 227, 31.7.2014, t. 69.

(2) OJ Rhif L 181, 20.6.2014, t. 74.

ffermwyr o dan gynlluniau cymorth o fewn fframwaith y polisi amaethyddol cyffredin(1);

ystyr “y Rheoliad Taliadau Uniongyrchol Dirprwyedig” (“*the Direct Payments Delegated Regulation*”) yw Rheoliad Dirprwyedig y Comisiwn (EU) Rhif 639/2014 sy’n ategu’r Rheoliad Taliadau Uniongyrchol(2).

(2) Mae i dermau a ddefnyddir yn y Rheoliadau hyn ac a ddefnyddir hefyd yn unrhyw un neu ragor o’r Rheoliadau Ewropeaidd yr ystyr a roddir iddynt yn y Rheoliadau hynny.

(3) Mae unrhyw gyfeiriad yn y Rheoliadau hyn at un o offerynnau’r UE yn gyfeiriad at yr offeryn hwnnw fel y’i diwygir o bryd i’w gilydd.

Isafswm arwynebedd cymwys daliad

3. At ddibenion Erthygl 10(1) a (2) o’r Rheoliad Taliadau Uniongyrchol, ni chaniateir rhoi unrhyw daliadau uniongyrchol i ffermwr pan fo arwynebedd cymwys y daliad y mae’r taliadau’n cael eu hawlio neu’n ddyledus yn unol ag Erthygl 10(1)(b) mewn perthynas ag ef yn llai na 5 hecтар.

Y dyddiad pan fo’n rhaid i dir cymwys fod ar gael i ffermwr

4. Mewn perthynas ag unrhyw flwyddyn y mae’r ffermwr yn gwneud datganiad yn ei chylch mewn cysylltiad â pharseli yn unol ag Erthygl 33(1) o’r Rheoliad Taliadau Uniongyrchol, y dyddiad y mae’n rhaid i’r parseli hynny fod ar gael i’r ffermwr yw 15 Mai o’r flwyddyn honno.

Cynnal ardal amaethyddol mewn cyflwr addas i bori neu drin y tir

5. At ddibenion Erthyglau 4(1)(c)(ii) a 4(2)(a) o’r Rheoliad Taliadau Uniongyrchol ac Erthygl 4 o’r Rheoliad Taliadau Uniongyrchol Dirprwyedig, bernir bod ardal amaethyddol yn cael ei chynnal mewn cyflwr addas i bori neu drin y tir pan fo ffermwr yn rheoli chwyn goresgynnol estron a phrysgwydd ar yr ardal honno.

Isafswm y gweithgarwch amaethyddol ar dir a gedwir yn naturiol mewn cyflwr addas i bori neu drin y tir

6. At ddibenion Erthyglau 4(1)(c)(iii) a 4(2)(b) o’r Rheoliad Taliadau Uniongyrchol ac Erthygl 5 o’r Rheoliad Taliadau Uniongyrchol Dirprwyedig, ar

(1) OJ Rhif L 347, 20.12.2013, t. 608, fel y’i diwygiwyd gan Reoliad (EU) Rhif 1310/2013 (OJ Rhif L 347, 20.12.2013, t. 865).

(2) OJ Rhif L 181, 20.6.2014, t. 1.

ardaloedd amaethyddol a gedwir yn naturiol mewn cyflwr addas i bori neu drin y tir, bernir bod ffermwr yn cyflawni isafswm y gweithgarwch pan fo—

- (a) yr ardal honno yn cael ei phori ar ddwysedd stocio blynyddol o 0.01-0.05 o unedau da byw yr hectar; neu
- (b) y ffermwr hwnnw yn rheoli chwyn goresgynnol estron a phrysgwydd ar yr ardal honno.

Coedlan cylchdro byr

7. At ddibenion Erthygl 4(1)(k) a (2)(c) o'r Rheoliad Taliadau Uniongyrchol—

- (a) y rhestr o rywogaethau coed wedi eu plannu yw—
 - Gwernen (*Alnus spp*)
 - Bedwen arian (*Betula pendula*);
 - Collen (*Corylus avellana*);
 - Onnen Ewropeaidd (*Fraxinus excelsior*);
 - Pisgwydden (*Tilia cordata*);
 - Castanwydden bêr (*Castanea sativa*);
 - Masarnen (*Acer pseudoplatanus*);
 - Helygen (*Salix spp*);
 - Poplysen (*Populus spp*); a
- (b) y cylch cynaeafu uchaf yw 20 mlynedd.

Ffermwyr ifanc

8.—(1) At ddibenion y cyfrifiad ar gyfer taliad sy'n ofynnol gan Erthygl 50(6) o'r Rheoliad Taliadau Uniongyrchol, bydd nifer yr hawliau y mae ffermwr ifanc wedi eu gweithredu yn unol ag Erthygl 32(1) o'r Rheoliad hwnnw yn cael ei luosi â 25% o swm a gyfrifir drwy rannu canran sefydlog o'r terfyn cenedlaethol ar gyfer blwyddyn galendr 2019 â nifer yr holl hectarau cymwys a ddatgenir ar y cais sengl ar gyfer blwyddyn hawlio 2015.

(2) At ddiben Erthygl 50(9) o'r Rheoliad Taliadau Uniongyrchol, mae un terfyn uchaf o 25 yn gymwys i nifer yr hectarau cymwys a ddatgenir gan y ffermwr.

Ffermwyr actif

9.—(1) At ddibenion Erthygl 9(2) is-baragraff 3(b) o'r Rheoliad Taliadau Uniongyrchol, nid yw gweithgareddau amaethyddol ffermwr yn ddi-nod os yw cyfanswm maint daliad y ffermwr hwnnw yn fwy na 21 hectar neu'n gyfwerth â hynny, yn unol â thrydydd is-baragraff Erthygl 13(1) o'r Rheoliad Taliadau Uniongyrchol Dirprwyedig.

(2) At ddibenion Erthygl 9(2) is-baragraff 3(c) o'r Rheoliad Taliadau Uniongyrchol, mae prif fusnes neu amcanion cwmni ffermwr yn cynnwys arfer gweithgarwech amaethyddol pan fo'r ffermwr hwnnw yn darparu tystiolaeth i Weinidogion Cymru y cafwyd o leiaf 40% o gyfanswm derbyniadau'r busnes o weithgareddau amaethyddol yn y flwyddyn ariannol ddiweddaraf y mae tystiolaeth ar gael ar ei chyfer, yn unol â thrydydd is-baragraff Erthygl 13(3) o'r Rheoliad Taliadau Uniongyrchol Dirprwyedig.

(3) At ddibenion Erthygl 9(4) o'r Rheoliad Taliadau Uniongyrchol, yr uchafswm yw EUR 5,000.

Hawliau'r Cynllun Taliad Sylfaenol

10.—(1) At ddibenion Erthygl 22(1) o'r Rheoliad Gweithredu Llorweddol, rhaid i geisiadau am ddyraniad o hawliau i daliadau o dan y cynllun taliad sylfaenol yn unol ag Erthygl 24 neu Erthygl 30, ac eithrio paragraff 7(e), o'r Rheoliad Taliadau Uniongyrchol, gael eu cyflwyno i Weinidogion Cymru ddim hwyrach na 15 Mai yn y flwyddyn galendr berthnasol.

(2) Rhaid i gais am ddyraniad o hawliau i daliadau gael ei gyflwyno i Weinidogion Cymru ar yr un pryd â'r cais am gymorth o dan y cynllun taliad sylfaenol, yn unol ag Erthygl 22(2) o'r Rheoliad Gweithredu Llorweddol.

(3) At ddibenion trydydd is-baragraff Erthygl 24(1) o'r Rheoliad Taliadau Uniongyrchol, bydd Gweinidogion Cymru yn dyrannu hawliau i daliadau i ffermwyr—

- (a) sydd â'r hawl i gael taliadau uniongyrchol yn unol ag Erthygl 9 o'r Rheoliad Taliadau Uniongyrchol; a
- (b) sy'n cyflwyno cais am ddyraniad o hawliau i daliadau o dan y cynllun taliad sylfaenol yn unol â pharagraffau (1) a (2) o'r rheoliad hwn; ac
- (c) naill ai—
 - (i) a oedd yn cynhyrchu ffrwythau, llysiau, tatws bwyta, tatws hadyd neu blanhigion addurniadol; neu
 - (ii) a oedd yn meithrin gwinllannoedd; neu
 - (iii) nad ydynt erioed wedi dal hawliau'r cynllun taliad sengl, naill ai drwy berchenogaeth neu drwy eu lesio i mewn, ond sy'n gallu cyflwyno tystiolaeth ddilysadwy eu bod, ar 15 Mai 2013, yn cynhyrchu, yn magu neu'n tyfu cynhyrchion amaethyddol, gan gynnwys drwy gynaeafu, godro, bridio anifeiliaid a chadw anifeiliaid at ddibenion ffermio.

(4) At ddibenion Erthygl 24(2) o'r Rheoliad Taliadau Uniongyrchol, y dyddiad y mae'n rhaid i nifer yr hectarau cymwys fod ar gael i'r ffermwr yw 15 Mai 2015.

Trosglwyddo hawliau

11.—(1) Yn achos gwerthu daliad neu ran ohono, caiff ffermwr, drwy gontract a lofnodir cyn 15 Mai 2015, drosglwyddo ynghyd â'r daliad neu ran ohono, yr hawliau i daliadau cyfatebol sydd i'w dyrannu, yn unol ag Erthygl 20 o'r Rheoliad Taliadau Uniongyrchol Dirprwyedig.

(2) Yn achosi lesio daliad neu ran ohono, caiff ffermwr, drwy gontract a lofnodir cyn 15 Mai 2015, lesio allan ynghyd â'r daliad neu ran ohono, yr hawliau i daliadau cyfatebol sydd i'w dyrannu, yn unol ag Erthygl 21 o'r Rheoliad Taliadau Uniongyrchol Dirprwyedig.

(3) At ddibenion Erthygl 8(1) o'r Rheoliad Gweithredu Taliadau Uniongyrchol, y cyfnod y mae'n rhaid i drosglwyddwr yr hawliau i daliadau hysbysu Gweinidogion Cymru ynddo am y trosglwyddiad yw rhwng 16 Mai yn y flwyddyn galendr flaenorol a 30 Ebrill (gyda'r ddau ddyddiad hynny'n gynwysedig) yn y flwyddyn galendr gyntaf y caiff y trosglwyddai gynnwys yr hawliau hynny yng nghais y trosglwyddai am daliadau uniongyrchol.

Trosglwyddo daliad

12. At ddibenion Erthygl 8(3)(a) o'r Rheoliad Gweithredu Llorweddol, y cyfnod y mae'n rhaid i'r trosglwyddai hysbysu Gweinidogion Cymru am y trosglwyddiad a gofyn am daliad o'r cymorth neu'r gefnogaeth, neu'r ddau, yw o fewn 30 o ddiwrnodau gan ddechrau â'r diwrnod cyntaf ar ôl dyddiad y trosglwyddiad.

Gweithgareddau heblaw amaethyddiaeth

13.—(1) Yn unol ag Erthygl 32(3) o'r Rheoliad Taliadau Uniongyrchol—

- (a) rhestrir y gweithgareddau heblaw amaethyddiaeth y caniateir eu cynnal ar ardal amaethyddol o ddaliad am gyfnod o hyd at 28 o ddiwrnodau ym mhob blwyddyn galendr yn Rhan 1 o'r Atodlen;
- (b) rhestrir yr ardaloedd a ystyrir yn rhai a ddefnyddir yn bennaf ar gyfer gweithgareddau heblaw amaethyddiaeth yn Rhan 2 o'r Atodlen;
- (c) os mai prif bwrpas y tir mewn unrhyw ardal yw ar gyfer gweithgareddau hamdden, neu weithgaredd heblaw amaethyddiaeth a restrir yn Rhan 1 o'r Atodlen, nid yw'n gyson ag

ystyried bod y tir yn parhau mewn defnydd amaethyddol.

Tyfu amrywiaeth o gnydau

14. At ddibenion is-baragraff cyntaf Erthygl 40(1) o'r Rheoliad Taliadau Uniongyrchol Dirprwyedig, y cyfnod trin y tir perthnasol mewn unrhyw flwyddyn yw 1 Mai i 15 Gorffennaf (gyda'r ddau ddyddiad yn gynwysedig).

Glaswelltir parhaol

15.—(1) Mae unrhyw laswelltir parhaol—

- (a) a leolir mewn safle o ddiddordeb gwyddonol arbennig; a
- (b) y mae'n ofynnol cael caniatâd ysgrifenedig mewn perthynas ag ef i'w aredig yn unol ag adran 28E o Ddeddf Bywyd Gwyllt a Chefn Gwlad 1981(1) ond nad yw caniatâd o'r fath wedi ei gael,

wedi ei ddynodi yn laswelltir parhaol amgylcheddol sensitif at ddibenion Erthygl 45(1) o'r Rheoliad Taliadau Uniongyrchol.

(2) Yn y rheoliad hwn—

mae i "safle o ddiddordeb gwyddonol arbennig" yr ystyr a roddir i "site of special scientific interest" yn adran 52(1) o Ddeddf Bywyd Gwyllt a Chefn Gwlad 1981.

Ardaloedd â ffocws ecolegol

16.—(1) At ddibenion Erthygl 46(2) o'r Rheoliad Taliadau Uniongyrchol, ystyrir bod yr ardaloedd a grybwyllir ym mhwyntiau (a) (tir braenar), (g) (ardaloedd coedlan cylchdro byr), (h) (ardaloedd coedwigaeth) a (j) (ardaloedd â chnydau sy'n bachu nitrogen) ac, yn ddarostyngedig i baragraff (3), bwynt (c) (nodweddion tirwedd), yn Ardaloedd â Ffocws Ecolegol.

(2) Yn unol ag Erthygl 45(2) o'r Rheoliad Taliadau Uniongyrchol Dirprwyedig, ni chaniateir unrhyw gynhyrchu amaethyddol ar dir braenar mewn unrhyw flwyddyn rhwng 1 Chwefror a 31 Gorffennaf (gyda'r ddau ddyddiad yn gynwysedig).

(3) At ddibenion ail is-baragraff Erthygl 45(4) o'r Rheoliad Taliadau Uniongyrchol Dirprwyedig, mae nodweddion tirwedd yn gyfyngedig i'r canlynol—

- (a) perthi hyd at 10 metr o led; a
- (b) waliau cerrig traddodiadol sy'n 1 metr o uchder o leiaf ac yn ddim mwy na 4 metr o led.

(1) 1981 p. 69.

(4) At ddibenion Erthygl 45(8) o'r Rheoliad Taliadau Uniongyrchol Dirprwyedig—

- (a) y rhestr o rywogaethau coed wedi eu plannu y caniateir eu defnyddio ar gyfer coedlan cylchdro byr yw—

Gwernen (*Alnus spp*),
Bedwen arian (*Betula pendula*),
Collen (*Corylus avellana*),
Onnen Ewropeaidd (*Fraxinus excelsior*),
Pisgwydden (*Tilia cordata*),
Castanwydden bêr (*Castanea sativa*),
Masarnen (*Acer pseudoplatanus*),
Helygen (*Salix spp*),
Poplys (*Populus spp*); a

- (b) o fewn y 2 flynedd gyntaf yn dilyn plannu unrhyw un neu ragor o'r rhywogaethau ym mharagraff (4)(a)—

- (i) ni chaniateir defnyddio unrhyw wrtaith mwynol ar y rhywogaethau hynny, a
(ii) ni chaniateir defnyddio cynhyrchion diogelu planhigion ond ar gyfer trin chwyn goresgynnol estron; a

- (c) y cylch cynaeafu hwyaf yw 20 mlynedd.

(5) At ddibenion Erthygl 45(10) o'r Rheoliad Taliadau Uniongyrchol Dirprwyedig—

- (a) y rhestr o gnydau sy'n bachu nitrogen yw—

Alffalffa (*Medicago sativa*),
Ffa (*Phaseolus spp*),
Ffa (*Vigna spp*),
Pys-y-ceirw (*Lotus corniculatus*),
Gwygbys (*Cicer spp*),
Meillion (*Trifolium spp*),
Ffa'r gerddi (*Vicia faba*),
Corbys (*Lens culinaris*),
Bysedd-y-blaidd (*Luninus spp*),
Pys (*Pisum spp*),
Ffacbys (*Vicia spp* ac eithrio *Vicia faba*),
Medicago Lupulina (*maglys*),
Glycine max (*ffa soia*),
Melilotus albus (*yr wydro wen*),
Onobrychus viciifolia (*y godog*); a

- (b) mewn unrhyw flwyddyn, rhaid i unrhyw gnwd sy'n bachu nitrogen gael ei hau erbyn 15 Mai a bod yn bresennol am 14 o wythnosau o'r dyddiad y'i heuwyd, neu hyd 1 Awst fan hwyaf.

(6) Wrth gyfrifo cyfanswm yr hectarau a gynrychiolir gan yr Ardal â Ffocws Ecolegol ar gyfer daliad, bydd Gweinidogion Cymru yn defnyddio'r ffactorau trosi a phwysoli a nodir yn Atodiad X i'r Rheoliad Taliadau Uniongyrchol.

Dirymiadau ac arbedion

17.—(1) Yn ddarostyngedig i baragraff (2), mae'r offerynnau a ganlyn wedi eu dirymu—

- (a) Rheoliadau Cynllun Taliad Sengl a Chynlluniau Cymorth y Polisi Amaethyddol Cyffredin (Cymru) 2010 (“Rheoliadau 2010”)(1); a
- (b) Rheoliadau Cynllun Taliad Sengl a Chynlluniau Cymorth y Polisi Amaethyddol Cyffredin (Cymru) (Diwygio) 2012(2).

(2) Bydd Rheoliadau 2010 fel yr oeddent mewn grym yn union cyn 2015 yn parhau i fod yn gymwys mewn cysylltiad â cheisiadau am gymorth o ran 2014 a blynyddoedd hawlio cynharach.

Rebecca Evans

Y Dirprwy Weinidog Ffermio a Bwyd, o dan awdurdod y Gweinidog Cyfoeth Naturiol, un o Weinidogion Cymru
22 Ebrill 2015

(1) O.S. 2010/1892 (Cy. 185).
(2) O.S. 2012/3093 (Cy. 311).

Gweithgareddau heblaw amaethyddiaeth

RHAN 1

Gweithgareddau heblaw amaethyddiaeth a ganiateir ar ardaloedd amaethyddol am hyd at 28 o ddiwrnodau ym mhob blwyddyn galendr

Saethu colomennod clai

Arwerthiannau cist car

Gwyliau

Sioeau a ffeiriau gwledig

Arwerthiannau a gwerthiannau fferm

Gweithgareddau marchogaeth

Balwnio

Parcio ceir*

Gwersylloedd sgowtiaid

Gwersylloedd geidiaid

Meysydd carafanau

Meysydd pebyll

Lleoliadau teledu a ffilmiau

Chwaraeon moduron

Moto cross

* Pa un a yw hynny'n gysylltiedig ag unrhyw weithgaredd arall heblaw amaethyddiaeth ai peidio

RHAN 2

Ardaloedd a ystyrir yn rhai a ddefnyddir yn bennaf ar gyfer gweithgareddau heblaw amaethyddiaeth

Cyrsiau golff

Ardaloedd ymarfer ceffylau

Meysydd awyr

Parciau solar

Gosodiadau a chyfleusterau chwaraeon parhaol

Explanatory Memorandum to The Common Agricultural Policy Basic Payment and Support Schemes (Wales) Regulations 2015

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 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Common Agricultural Policy Basic Payment and Support Schemes (Wales) Regulations 2015.

I am satisfied that the benefits outweigh any costs.

Rebecca Evans
Deputy Minister for Farming and Food
22 April 2015

1. Description

The Common Agricultural Policy Basic Payment and Support Schemes (Wales) Regulations 2015 ('the Regulations') sets out the decisions made by Wales in respect of the European Union (EU) reform of the Common Agricultural Policy (CAP). The Regulations provide a legislative framework for those decisions and include, amongst others, the greening options for Wales and the Young Farmers Scheme. Payment options for the BPS are currently subject to a public consultation. Once that has concluded and a decision taken, the necessary provisions will be included in a future Statutory Instrument amending these Regulations.

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

These Regulations have been developed in response to public consultations and monthly meetings with stakeholders. The changes have been discussed in detail in the RIA.

3. Legislative background

The reform of the CAP is governed by Regulation (EU) No 1307/2013 establishing rules for direct payments to farmers under support schemes within framework of the Common Agricultural Policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009. It came into force on 17 December 2013 and is supplemented by a number of European Commission (EC) Delegated and Implementing Regulations. Member States may introduce their own domestic legislation to implement certain aspects of the EU legislation.

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

The Regulations would be made by the negative procedure.

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' provisions are either compulsory or optional. Some of the compulsory elements also offer choices as to how they are implemented. The choices available to the Welsh Government regarding these options and the decisions taken are set out in the RIA.

Reform of CAP direct payments from January 2015 will see the introduction of a suite of changes including the introduction of a payment for greening and a separate support scheme for young farmers. The policy aim is to implement these changes in a managed manner.

Detailed information on these changes is included in the RIA.

5. Consultation

The Welsh Government has developed its Pillar 1 proposals and made decisions on the basis of extensive consultation activity. The consultation paper published in July 2013 was supplemented by public meetings across Wales. A further consultation on aspects of the Basic Payment Scheme (BPS) which are not the subject of this Statutory Instrument is in progress and ends on 23 June 2015. Developing policy decisions have been shared with and commented on by a working group which has included as members the FUW, NFU (Cymru), CLBA, CAAV, YFC and TFA.

PART 2 – REGULATORY IMPACT ASSESSMENT

Options

This paper is split into sections for ease of reading:

1. Basic Payment Scheme; this includes minimum claim size, active farmer and entitlements
2. Greening; this includes permanent grassland, Crop Diversification and Ecological Focus Area
3. Young Farmers Scheme
4. Small Farmers Scheme

The European Union periodically reforms the CAP. This reform applies to Wales as part of the UK, which is an EU Member State. The reforms are given effect by pan-European legislation which provides a legal framework that the Welsh Government must adhere to. If we choose to do nothing and not implement CAP reform we would risk infraction proceedings and disallowance penalties. In addition, there would be no mechanism for farmers in Wales to receive any payments and the Welsh Government would run the risk of being substantially fined. Therefore, the reform must be implemented. The “do nothing” options have not been covered as, without running the above risks, it is not possible to do nothing.

The options we have in introducing this reform of the CAP are explained in the sections below.

1. Basic Payment Scheme (BPS)

Minimum Claim Size

The EU Regulations state that all claims must be a minimum of 1 hectare (ha) but may be increased to 5ha. Currently the Welsh Government has a minimum claim size of 0.3ha. The options were to apply a minimum claim size of between 1-5ha. The Welsh Government will be applying a 5ha minimum claim size.

The consultation proposed setting a new minimum threshold of 3ha. 3ha was seen as a reasonable option and was aligned with the minimum holding size used for Pillar 2 Glastir Schemes. It was also felt that 5ha might disadvantage young or new entrants. Points made during the evening CAP meetings supported 5ha however, the view being that people entering farming would need at least this amount of land to have a viable business. Consultation responses brought little in the way of comment with only a small majority in favour of 5ha¹.

In the context of Welsh farming, 5ha is still a very small farm. With some 16,000 claiming farms and 1,333,000ha of claimed land, the Welsh average

¹ 12 respondents opted for 5 ha, 10 for 3 ha and 1 would like more than 5 ha.

farm size is much larger at 83ha. Claim data from 2012 records that 887 farms with less than 5ha claimed SPS worth €496,000, a very small sum relative to a Pillar 1 budget of some €327m. Of these small farms, 805 had claims of less than €1,000 and only 19 claimed more than €2,000. The minimum claim size could be raised to 5ha without materially impacting on the farming industry – the farms that would lose out would mostly lose negligible sums - and that would free around €0.5m a year for distribution to larger farms as well as having a small administrative benefit by reducing the number of claims processed. In addition, Welsh Ministers wanted to focus Pillar 1 support on productive farms and in a Welsh context these are larger than 5ha.

There would be no direct impact on Glastir schemes by raising the limit from the proposed 3ha to 5ha. Having different size limits makes no difference to how either Pillar 1 or Pillar 2 operates. Glastir entry is also not conditional on being eligible for Pillar 1. 27 farms claiming SPS with 3-5ha are also in Glastir. It is possible that the withdrawal of Pillar 1 payments might impact on the operation of these farms to the point that they are no longer viable but given their SPS payments are very small this seems very unlikely.

Active Farmer

The EU Regulations provide that payments will only be made to people who are 'active farmers'. The European Commission (EC) has concerns that organisations whose main business is something other than agriculture, or people who are claiming payments but are not farming themselves, should be prevented from claiming BPS payments. The EU Regulations also introduce a 'negative list' where those claimants carrying out certain business activities on the negative list should not be eligible to claim. This list includes airports, water companies, railways, real estate services, permanent sport and recreational grounds. The Welsh Government is required to;

- a) set criteria for activities that maintain the land in a suitable state for grazing/cultivation without preparatory action that goes beyond usual methods and machines; and
- b) define minimum activity on land naturally kept fit for grazing or cultivation.

Under **a)**, the Welsh Government has decided that the area must be grazed at an annual stocking density of 0.01-0.05 livestock units per hectare or the claimant must control non-native invasive weeds and scrub on that area.

Under **b)**, the Welsh Government has decided that the claimant must control non-native invasive weeds and scrub on that area.

These requirements will affect all claimants but they should not incur any additional costs as the requirements do not go beyond those activities which demonstrate that they are an active farmer.

It is important to strengthen the definitions as without reference to stocking rates/control of weeds, a landowner with naturally kept land would be able to

comply with the agricultural activity definition as long as the field parcels are kept in grazing condition. This could require as little effort as mowing the parcel once a year. The addition of a minimum stocking density/control of weeds ensures the claimant has to make some effort. It is also intended to deter those persons who do not keep any livestock from claiming payments meant for those claimants the EC consider to be active farmers. The Welsh Government has discussed these decisions with the EC and has taken account of their views in making this decision.

For those persons carrying out a business on the negative list, there are three further tests which may allow them access to the BPS². These tests may be modified by Member States. Following consultation with Defra, other UK Devolved Administrations and industry stakeholders, the criteria listed at a)-b) below will be used by the Welsh Government. Those claimants carrying out an activity on the negative list will need to satisfy one of the tests below in order to be eligible for the BPS;

- a) the annual amount of direct payments is at least 5% of the total receipts that if obtained from non-agricultural activities in the most recent fiscal year for which such evidence is available.
- b) a farmer's agricultural activities are not insignificant if that farmer's total holding size is greater than or equal to 21 hectares.
- c) a farmer's principal business or company objects consist of exercising an agricultural activity where that farmer provides the Welsh Ministers with evidence that at least 40% of the total receipts obtained by the business in the most recent fiscal year for which evidence is available were obtained from agricultural activities

Option a) does not alter the provision as it is set out in the EU Regulation.

For option b), the Welsh Government has decided that an eligible agricultural area in excess of the median hectare size of a farm in Wales cannot be considered insignificant. The justification for this is that if someone is farming an area of land that is bigger in area than at least half the claiming farms in the territory, then it is reasonable that they should be considered to be an active farmer for the purposes of the BPS. In Wales' case the median farm size set for the criterion is 21ha.

For option c), the Welsh Government has decided that demonstrating that 40% of total receipts are from agricultural activities is sufficient to provide assurance that a claimant undertakes agricultural activity either as its principal business, or as one of no more than two principal businesses. A claimant who cannot show that their agricultural receipts exceed 40% of total receipts cannot reasonably be said to be undertaking agricultural activity as their principal business. This is felt to be the best test, within WTO rules, of whether agricultural activity is the principal business or company object.

² Article 9(2)(a-c) of Regulation (EU) No 1307/2013

The Welsh Government also had the option to add further business types to the negative list on the basis of objective and non discriminatory criteria. The Welsh Government has not added to this list. An active farmer workshop with industry stakeholders could not identify any additional businesses or activities which should be added to the negative list. This has benefits to the Welsh farming industry as we do not want to penalise farms that have positively diversified into non-farming enterprises if their main business activity is still farming.

Entitlements

All farms must have entitlements to claim the Basic Payment Scheme. Under the Single Payment Scheme, claimants were allocated historical entitlements based on what they produced during the reference years of 2000, 2001 and 2002. Historical entitlements were extinguished on 31 December 2014. They will be replaced by new entitlements in 2015 with one entitlement being awarded per hectare of land. In order to be eligible for this first allocation of new entitlements a person must:

- Have received a SPS payment in 2013;
- Or instead be able to provide evidence, such as receipts or accounts, to prove that they were farming in 2013 and had not claimed SPS previously.

The Welsh Government also had a choice whether to allow farmers who had not had SPS entitlements in the past to claim. It was decided to allow this to benefit all farmers in Wales. There will be farmers who were never able to claim SPS due to them not having entitlements or farming within the reference period for the SPS. By taking up this option, the Welsh Government is allowing all farmers to be allocated entitlements irrespective of whether they claimed SPS or not. It is not possible to estimate the new number of entitlements until all the claims have been received in 2015.

The Welsh Government was able to decide whether to apply additional objective and non-discriminatory eligibility criteria for new farmers to be allocated entitlements. This will not be taken forward. Applying additional criteria may mean that Pillar 1 support can be targeted to those who have proven experience but this may prove a barrier to new entrants. Further, those who previously claimed SPS will not have had to comply with the same criteria. Therefore, to apply extra criteria to some, but not all, would be unfair.

2. Greening

Greening is the informal name for what the EU Regulations term as agricultural practices beneficial for the climate and the environment. It is a compulsory element of the payment system and makes up 30% of Pillar 1 payments. There are three elements of greening:

- Permanent grassland, this is grass which has not been ploughed for five years or more and Wales is required to keep within 5% of the area we declared to the Commission as permanent grassland.
- Ecological Focus Area (EFA), a claimant will need to have ecological focus areas on their arable land if they have more than 15 hectares of arable land.
- Crop Diversification, this is the 2 or 3 crop rule, claimants with more than 10 hectares of arable land will need to follow these rules on the minimum area of crops they grow and the areas they cover.

The simplest greening option has been chosen with the aim that there will be more benefits for the environment; hence the 15% transfer, from Pillar 1 to Pillar 2.

Use of a national certification scheme

The Welsh Government is not implementing a national certification scheme and will adopt the EC's default greening proposals based on maintaining permanent grassland, crop diversification and ecological focus area. The default measures represent the most straightforward means for the majority of farms to qualify without significantly impacting on their businesses. It is estimated that 86% of farms of 20ha or more could comply with the default greening requirements without significantly changing their operations. For farms smaller than this, the figure rises to 98%. There was significant support for this option in the consultation responses with 3 to 1 of those responding to this question favouring the default requirements.

Permanent Grassland

As well as the adoption of the default requirements for permanent grassland, for greening purposes the Welsh Government has decided to designate environmentally sensitive permanent grassland in all SSSIs unless the SSSI has written consent to plough in accordance with Section 28E of the Wildlife and Countryside Act 1981. This is an exception as some SSSI's require ploughing for protection of the habitat.

The Welsh Government had the option to apply an obligation to maintain permanent grassland at either a holding or all-Wales level in order to ensure that the ratio of permanent grassland does not decrease by more than 5%. The Welsh Government has decided to keep the ratio of permanent grassland to total agricultural area maintained at the all-Wales level.

Crop Diversification

The Welsh Government has adopted the default requirements for crop diversification.

Ecological Focus Area

The Welsh Government has adopted the default requirements for Ecological Focus Areas (EFA). The EFAs used in Wales will be fallow land, hedges and traditional stone walls from the landscape features options along with short rotation coppice, afforested areas used to claim the Single Payment Scheme in 2008 and nitrogen fixing crops. This was decided following significant discussions with stakeholders and represents the best option for Welsh farms in terms of established farming practices and Wales' geography.

The Welsh Government does not permit adjacent EFA areas between farms or group EFA applications.

3. Young Farmers Scheme

The Young Farmers Scheme is mandatory. It allows up to 2% of the national ceiling to be utilised to enable young farmers (under 40 years of age) to receive a top-up on their basic payment for up to five years.

The Welsh Government has decided to not set any additional eligibility criteria for young farmers than what is set by the EU Regulations. This ensures that we are not placing additional barriers to entry on young farmers, thus making the process fairer and open to all potential applicants. It is also simpler to administer.

The payments for this Scheme will be made on a maximum of 25ha and the payment methodology chosen is calculated by dividing a fixed percentage of the national ceiling for the calendar year 2019 by the number of all eligible hectares declared in 2015. This was agreed following an industry stakeholder meeting.

4. Small Farmers Scheme

There will be no Small Farmer Scheme in Wales as the impact of this scheme would be extremely low, affecting only 1,104 farms. The Small Farmer Scheme would provide exemption from cross compliance requirements for those eligible. The Welsh Government believes that all farmers claiming BPS should be required to observe cross compliance obligations and any exemption may raise the risk of a decrease in environmental and animal health standards in Wales.

Consultation

There has been extensive consultation throughout the CAP Reform period. There have been three written consultation documents completed; December 2011, February 2013 and July 2013, along with a further exercise launched on 31 March 2015. The links to these are below.

December 2011 – CAP Conversation

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

February 2013 – CAP Reform – Direct Payments – Next Steps

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

July 2013 – December 2013 – Welsh Government Proposals for Direct Payments Consultation

<http://wales.gov.uk/topics/environmentcountryside/farmingandcountryside/cap/pillar-1-direct-payments/documents/proposals-for-direct-payments-to-farmers/?lang=en>

March 2015 – June 2015 – Proposals for the Basic Payment Scheme

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

Direct Payments to farmers – Decisions Booklet

<http://wales.gov.uk/topics/environmentcountryside/farmingandcountryside/cap/pillar-1-direct-payments/documents/direct-payments-to-farmers-decisions-booklet/?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.

APPENDIX A

The Competition Assessment

The competition filter test	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation?	Yes
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

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

()

CLC...

Adroddiad drafft y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol**Teitl: Gorchymyn Ysgol Uwchradd y Dwyrain (Newid Amserau Sesiynau Ysgolion) 2015****Gweithdrefn: Negyddol**

Gwneir y Gorchymyn hwn o dan adran 2 o bennod 1 o Ddeddf Addysg 2002 sy'n galluogi Gweinidogion Cymru, ar gais corff cymwys, i eithrio'r corff hwnnw rhag darpariaethau penodol deddfwriaeth addysg. Yn rhinwedd rheoliad 4(2), (3) a (4) y gorchymyn, ni fydd newid Rheoliadau Amserau Sesiynau Ysgolion 2009 yn gymwys i gorff llywodraethu Ysgol Uwchradd y Dwyrain. Bydd hyn yn caniatáu i'r corff llywodraethu wneud newidiadau i pryd y bydd sesiynau'r ysgol yn dechrau a gorffen, gan gynnwys pryd y bydd yr ysgol yn dechrau a gorffen, o 1 Mehefin 2015 yn hytrach nag ar ddechrau'r tymor ysgol neu'r flwyddyn. Caiff y gorchymyn effaith tan 31 Awst 2015.

Materion technegol: craffu

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

Rhinweddau: craffu

O dan Reol Sefydlog 21.3 gwahoddir y Cynulliad i nodi'r Gorchymyn hwn.

Pennod 1 o Ddeddf Addysg 2002 yw hwyluso gweithredu prosiectau arloesol a allai, ym marn Gweinidogion Cymru, gyfrannu at godi safonau addysgol trwy godi gofynion rheoliadol am gyfnod penodol i hwyluso treialu prosiect arloesol sydd â'r potensial i godi safonau addysgol.

Dengys chwiliad o gronfa ddata deddfwriaethol Lexis mai dyma'r tro cyntaf i Weinidogion Cymru arfer y pŵer hwn.

Efallai yr hoffai'r aelodau nodi hefyd, er gwaethaf ei gymhwyso'n lleol, y gwneir y Gorchymyn hwn yn unol â gweithdrefn statudol ffurfiol.

Cynghorwyr Cyfreithiol**Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol**

ADRODDIAD DRAFFT AR OFFERYN STATUDOL

24 Ebrill 2015

2015 Rhif 1227 (Cy. 81)

ADDYSG, CYMRU

Gorchymyn Ysgol Uwchradd y Dwyrain (Newid Amserau Sesiynau Ysgolion) 2015

NODYN ESBONIADOL

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

Mae'r Gorchymyn hwn wedi ei wneud o dan adran 2 o Ddeddf Addysg 2002. Mae erthygl 2 yn darparu nad yw rheoliad 4(2), (3) a (4) o Reoliadau Newid Amserau Sesiynau Ysgolion (Cymru) 2009 yn gymwys i gorff llywodraethu Ysgol Uwchradd y Dwyrain. Bydd hyn yn caniatáu i'r corff llywodraethu wneud newidiadau i ba bryd y mae sesiynau'r ysgol yn dechrau ac yn dod i ben, gan gynnwys pa bryd y mae'r diwrnod ysgol yn dechrau ac yn dod i ben o 1 Mehefin 2015 ymlaen, yn hytrach nag ar ddechrau tymor ysgol neu flwyddyn ysgol. Mae erthygl 3 yn pennu bod y Gorchymyn yn cael effaith tan 31 Awst 2015.

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

2015 Rhif 1227 (Cy. 81)

ADDYSG, CYMRU

**Gorchymyn Ysgol Uwchradd y
Dwyrain (Newid Amserau Sesiynau
Ysgolion) 2015**

Gwnaed 20 Ebrill 2015

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 24 Ebrill 2015

Yn dod i rym 1 Mehefin 2015

Yn unol ag adran 4(2) o Ddeddf Addysg 2002(1) (“y Ddeddf”), mae corff llywodraethu Ysgol Uwchradd y Dwyrain (“y corff llywodraethu”) wedi ymgynghori â'r awdurdod lleol a'r personau hynny y mae'n ymddangos iddynt eu bod yn briodol, gan gynnwys rhieni disgyblion sydd wedi eu cofrestru yn yr ysgol a'r staff sy'n gweithio yn yr ysgol;

Mae Gweinidogion Cymru o'r farn, ar ôl rhoi sylw i'r materion a nodir yn adran 1(2) o'r Ddeddf, y gall gweithredu gan y corff llywodraethu ddarpariaethau'r Gorchymyn hwn gyfrannu at godi'r safonau addysgol a gyrhaeddir gan blant yng Nghymru;

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i Gynulliad Cenedlaethol Cymru gan adran 2(1) o'r Ddeddf(2), ac a freiniwyd bellach ynddynt hwy, ar gais y corff llywodraethu, yn gwneud y Gorchymyn a ganlyn:

(1) 2002 p. 32.

(2) Breiniwyd swyddogaethau Cynulliad Cenedlaethol Cymru yn adrannau 1 i 5 yng Ngweinidogion Cymru gan baragraffau 30 a 32 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p. 32).

Enwi a chychwyn

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Ysgol Uwchradd y Dwyrain (Newid Amserau Sesiynau Ysgolion) 2015 a daw i rym ar 1 Mehefin 2015.

Esemptiad o'r Rheoliadau Sesiynau Ysgolion

2. Nid yw rheoliad 4(2), (3) a (4) o Reoliadau Newid Amserau Sesiynau Ysgolion (Cymru) 2009(1) yn gymwys i gorff llywodraethu Ysgol Uwchradd y Dwyrain(2) ar Heol Casnewydd, Caerdydd CF3 3XG.

Y cyfnod amser

3. Bydd y Gorchymyn hwn yn cael effaith tan 31 Awst 2015.

Huw Lewis

Y Gweinidog Addysg a Sgiliau, un o Weinidogion
Cymru
20 Ebrill 2015

(1) O.S. 2009/572 (Cy. 54).
(2) Rhif Cyfeirnod Unigryw'r Ysgol: 6814076.

Explanatory Memorandum to the Eastern High School (Change to School Sessions Times) Order 2015

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

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Eastern High School (Change to School Sessions Times) Order 2015.

Huw Lewis
Minister for Education and Skills

20 April 2015

1. Description

This Order dis-applies the requirements in regulation 4(2), (3) and (4) of the Changing of School Session Times (Wales) Regulations 2009 (“the Regulations”) to the governing body of Eastern High School. This will allow the governing body to make alterations to when the school sessions start and end, including when the school day starts and ends at any time in the school year without having to wait for the start of a school term or academic year or give a minimum period of notice. Article 3 specifies that the Order shall have effect until 31 August 2015.

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

None.

3. Legislative background

This Order is made under section 2 of Chapter 1 of the Education Act 2002. Those powers were conferred on the National Assembly for Wales and are now vested in the Welsh Ministers by virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006. The purpose of Chapter 1 of that Act is to facilitate the implementation of innovative projects which may (in the opinion of the Welsh Ministers) contribute to the raising of educational standards. Specifically, section 2 gives the Welsh Ministers on the application of one or more qualifying bodies, to exempt that applicant from particular provisions of education legislation, or to relax the requirements of, or to make modifications to, such provisions in order to further such innovative projects. Orders under section 2 have effect for the period specified in the Order, which cannot initially exceed three years.

The Order suspends regulation 4(2), (3) and (4) of the Regulations. Regulation 4(2) provides that if the governing body determine to implement the proposed change, it must, not less than six weeks before any change in those times is to take effect.

- (i) inform the local authority of the change and of when it is to take effect; and
- (ii) take such steps as are reasonable practicable to secure that the parents of all registered pupils at the school are so informed.

not less than three months before the change is to take effect.

Regulation 4(3) of the Regulations provides that where the change concerns:

- (a) the times at which the first school session is to begin or the second school session is to end or both, or
- (b) if there is only one school session, the time it is to begin or end (or both),

Regulation 4(4) of the Regulations provides that a change in the times of a school session must only be made so as to take effect –

- (a) where paragraph (3) applies, at the beginning of the school year; and
- (b) in all other cases, at the beginning of a school term.

The effect of the suspension of these provisions by the Order is, therefore to exempt the governing body of Eastern High School wait until the start of a school term or beginning of the academic year to change school session times including when the school day starts and ends and to exempt the governing body from having to give minimum period of notice set out in regulation 4(2) and (3) or the Regulations.

The Order is subject to the negative procedure.

4. Purpose & intended effect of the legislation

The Power to innovate (“the Power”) provides the Governing Bodies of schools or further education institutions, local authorities, and certain qualifying foundations with an opportunity to apply to the Welsh Ministers to lift regulatory requirements in education legislation for a time-limited period (by means of a Power to Innovate Order), so they can trial a specific innovative project that has the potential to raise educational standards. The Power is the result of concerns that innovative ideas can be unintentionally thwarted by detailed regulations and legislation. It is intended to facilitate the implementation of these ideas and to ensure that no opportunity is lost to trial innovative proposals that could raise standards.

The Governing Body of Eastern High School Cardiff has applied for exemption of regulation 4(2), (3) and (4) of the Regulations to allow the governing body to make alterations to the timing of school session times including the timing of the end of the school day without having to give three months notice and wait until the start of the academic year. The school wishes to reduce the lunch hour by 20 minutes and bring the end of the school day forward from 3.20 pm to 3.00 pm.

The school has experienced a period of instability following the merger of two former high schools. The governing body considers that a one hour lunch period is not conducive to effective learning and that a reduction in the lunch time period will result in learning beginning more promptly after the lunchtime period with pupils more ready to learn.

The governing body consider that the proposal will lead to an improvement in punctuality to lessons following the lunch break and a reduction in negative

event logs made during those lessons. They also anticipate a reduction in poor behaviour and bullying incidents during the lunchtime period which will result in improved health, safety and wellbeing of pupils. Taking these issues into account the governing body considers that the quality of learning will undoubtedly improve.

Given the urgency of the situation in terms of immediate health and safety concerns and the negative impact this is having on learning and the commensurate need to implement the changes at the earliest opportunity the governing body do not consider that they can give three months notice of the changes and wait until the 1 September 2015 to implement them.

The school proposes to monitor the impact of the changes on a week by week basis until the end of the academic year. This will include measuring levels of behaviour around the school, which will be recorded through reduced damage, reduced levels of aggressive or bullying behaviour and improvements in punctuality.

The headteacher has past experience of implementing this in three previous schools which saw huge benefits in this change and believes that the changes will result in school session times which are more conducive to effective learning in Eastern High School and an associated improvement in educational standards at the school.

5. Consultation

Section 4(2) of the Education Act 2002 places a legal obligation on applicants for a Power to Innovate Order to consult with the local authority and with other appropriate persons on their proposal. Under the existing Changing of School Session Times (Wales) Regulations 2009 the governing body is required to consult with the local authority, parents of pupils at the school and school staff on the proposed changes to school session times. The Welsh Government would therefore expect these persons to be consulted as a minimum. The governing body has confirmed in its application that:

- the local authority has been consulted and agrees with the proposal;
- all parents were informed by newsletter and text of an information evening to discuss the changes. 60 families (around 15% of parents) were represented at the meeting all of whom agreed with the changes;
- the Headteacher also wrote to all parents asking them for their opinions and providing them with an opportunity to reply if they wished to take advantage of supervision of their child to be looked after until 3.20 pm. Two parents sought confirmation that 40 minutes would be sufficient to feed all pupils which was confirmed. There has been no opposition.

In addition:

- all school staff were consulted, and all agree to the changes and there has been no opposition;

- all regional representatives from all the main unions have been consulted at a joint meeting and were in complete agreement;
- the Local Authority Director of Education has been consulted and agrees the change would benefit the school. The school does not have school buses so there are no transport issues;
- the headteacher of the neighbouring school has been consulted as the new finishing time may result in students from both schools meeting outside. The headteacher has no objections with the proposed changes and the school intends to increase duty to supervise at this time of the day; and
- the School Challenge Advisors agree to the move.

The Welsh Government is therefore content that the appropriate persons have been consulted.

No further Welsh Government consultation was undertaken on this Order. The governing body has undertaken all its statutory consultation requirements and further consultation on this Order was deemed unnecessary and would reduce the expected benefits of undertaking this action by extending the timetable unnecessarily.

6. Regulatory Impact Assessment (RIA)

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, local government, charities or voluntary bodies the Welsh language, equality of opportunity and sustainable development.

Carl Sargeant AC / AM
Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref LF/CS/0413/15

David Melding AC
Cadeirydd – Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Tŷ Hywel
Bae Caerdydd
CF99 1NA

Ebrill 2015

Annwyl

Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) (Diwygio) 2015

Rwyf yn ysgrifennu atoch mewn ymateb i'ch llythyr dyddiedig 18 Mawrth am y Rheoliadau uchod.

Fel y gwelodd y Pwyllgor yn ei gyfarfod ar 9 Mawrth, cafodd erthygl 14(5)-(9) o'r Gyfarwydddeb effeithlonrwydd ynni ei throsi ym mhob rhan o'r DU ar ôl 5 Mehefin 2014. O ystyried hynny, nid wyf yn rhagweld y bydd unrhyw risg anghymesur i Lywodraeth Cymru. Er hynny, mae'n hanfodol bod yr awdurdodau perthnasol yn cydweithio er mwyn sicrhau na fydd sefyllfa debyg yn codi yn y dyfodol.

Fel y nodwch, mae fframwaith trwyddedu amgylcheddol cyffredin ar draws Cymru a Lloegr ar hyn o bryd. Mae Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2010 wedi cael eu diwygio sawl gwaith ers iddynt gael eu gwneud gyntaf, ac roedd rhai o'r diwygiadau hynny'n sylweddol. Mae hynny wedi arwain at glytwaith o ddeddfwriaeth, ac nid oes unrhyw fersiwn gyfredol, awdurdodol, wedi'i chydgrynhoi y gall rheoleiddwyr a'r diwydiannau rheoleiddiedig gyfeirio ati. O'r herwydd, mae fy adran yn gweithio gyda Defra ar gynigion i baratoi fersiwn wedi'i chydgrynhoi o'r Rheoliadau presennol. Byddai gwahanu'r drefn ar gyfer Cymru a Lloegr wrth i'r gwaith hwnnw fynd rhagddo yn arwain at fwy o gymhlethdod ac ansicrwydd i'r rheoleiddiwr ac i'r rheini sy'n cael eu rheoleiddio.

Yn gywir

Carl Sargeant AC / AM
Y Gweinidog Cyfoeth Naturiol
Minister for Natural Resources

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)
Tudalen y pecyn 89

English Enquiry Line 0300 0603300
Llinell Ymholiadau Cymraeg 0300 0604400
Correspondence: Carl.Sargeant@wales.gsi.gov.uk

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**Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Constitutional and Legislative Affairs Committee**

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



Carl Sargeant AC
Y Gweinidog Cyfoeth Naturiol
Llywodraeth Cymru
Pumed llawr, Tŷ Hywel
Bae Caerdydd
CF99 1NA

18 Mawrth 2015

Annwyl Carl

CLA493 – Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2015

Trafododd y Pwyllgor y Rheoliadau cyfansawdd uchod yn ei gyfarfod ar 9 Mawrth 2015. Daeth o hyd i nifer o feysydd afreolaidd, hyd yn oed ar ôl cymryd i ystyriaeth yr amgylchiadau penodol ynghylch cyflwyno'r Rheoliadau hyn.

Yn ogystal ag adrodd i'r Cynulliad ar nifer o bwyntiau technegol a theilyngdod (a restrir isod), dymunwn dynnu sylw at ein pryderon a cheisio sicrwydd ar rai materion penodol.

Rydym wedi adrodd i'r Cynulliad nad yw'r Rheoliadau wedi'u gwneud yn ddwyieithog. Bydd swyddogion y Pwyllgor yn cwrdd â swyddogion y Llywodraeth i drafod materion yn ymwneud ag offerynnau cyfansawdd, a bydd yr offeryn hwn yn debygol o fod yn rhan o'r trafodaethau hynny.

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E-bost / Email: ruth.hatton@cynulliad.cymru

Yn ogystal, rydym wedi adrodd bod y rheoliadau dros naw mis yn hwyr. Y dyddiad trosi ar gyfer y Gyfarwyddeb Effeithlonrwydd Ynni oedd 5 Mehefin 2014. Byddai'n ddefnyddiol pe gallech ddweud a yw Cymru mewn perygl o wynebu achos am dor-ddyletswydd o ganlyniad i hyn.

Rydym yn ymwybodol bod yr Alban a Gogledd Iwerddon wedi penderfynu drafftio eu rheoliadau ar wahân. Er y nodwn mai'r penderfyniad oedd gosod rheoliad cyfansawdd oherwydd bod gan Gymru a Lloegr un fframwaith trwyddedu amgylcheddol, serch hynny, byddai gennym ddiddordeb mewn clywed a oes cwmpas ar gyfer darpariaeth ar wahân yn y maes hwn, o ganlyniad i'r newidiadau yn y fframwaith rheoleiddio amgylcheddol yng Nghymru. Efallai y byddai dull Cymru yn unig o weithio wedi golygu deddfwriaeth fwy cywir a dwyieithog ar gyfer Cymru.

Ceisiwn eich sicrwydd na fydd y materion hyn yn codi eto.

Yn gywir

A handwritten signature in black ink that reads "David Melding". The signature is written in a cursive style with a long, sweeping tail on the final letter.

David Melding AC
Cadeirydd

Rosemary Butler AC
Y Llywydd

5 Mai 2015

Annwyl Rosemary

Gweithdrefnau cyllidebol

Fel y gwyddoch, mae'r Pwyllgor Cyllid wedi cyhoeddi dau adroddiad ar y gweithdrefnau cyllidebol newydd y bydd angen eu rhoi ar waith yn dilyn y cam o ddatganoli pwerau cyllidol. Cyhoeddwyd [adroddiad rhan 1](#) ym mis Gorffennaf 2014. Yn dilyn hynny, cyhoeddwyd [adroddiad rhan 2](#) ym mis Mawrth 2015.

Er bod yr adroddiadau hyn yn bennaf yn gwneud argymhellion i'r Llywodraeth, mae'n amlwg bod gan y Cynulliad gyfrifoldeb dros sicrhau bod y gweithdrefnau newydd yn addas at y diben, a hynny gan sicrhau bod y gweithdrefnau hyn yn cynnwys darpariaeth ar gyfer craffu effeithiol gan y Cynulliad.

Yn benodol, mae argymhelliad 14 yn adroddiad rhan 1 yn dweud:

Bydd y Pwyllgor yn edrych ar faterion capasiti'r Cynulliad a Llywodraeth Cymru yn ystod ail ran yr ymchwiliad. Fodd bynnag, mae'r Pwyllgor yn argymhell bod Comisiwn y Cynulliad a Llywodraeth Cymru yn dechrau ar waith a fydd yn ystyried y capasiti sydd ar gael i gynnal gwaith mewn perthynas â datganoli dau bŵer ariannol arall i Gymru.

Mae argymhelliad 1 yn adroddiad rhan 2 yn dweud:

Mae'r Pwyllgor yn argymhell y dylai Llywodraeth Cymru a'r Cynulliad weithio gyda'i gilydd i ddatblygu proses newydd ar gyfer y gyllideb, sy'n caniatáu ar gyfer:

cyhoeddiadau ynghylch cyllideb y DU,



proses ac iddi ddwy ran,

yr angen i roi arwydd cynnar i gyrff cyhoeddus eraill o'u cyllidebau ar gyfer y flwyddyn ariannol ddilynol,

rhoi digon o amser i graffu yn y Cynulliad, a

"diogelu" unrhyw ddatganoli cyllidol pellach at y dyfodol.

Drwy gydol y broses hon, mae'r Pwyllgor wedi cydweithio'n agos â Jane Hutt AC, y Gweinidog Cyllid a Busnes y Llywodraeth, i sicrhau bod gwaith y Pwyllgor yn cael ei lywio gan y Llywodraeth a bod y casgliadau a'r argymhellion wedi'u llunio er mwyn sicrhau bod anghenion y Cynulliad a'r Llywodraeth wedi'u cymryd i ystyriaeth. Roedd y ddatl a gynhaliwyd yn ddiweddar ar adroddiad rhan 2 yn dystiolaeth o'n hymdrechion i weithio ar y cyd. Fel Pwyllgor, rydym yn gobeithio y bydd y berthynas effeithiol hon gyda'r Gweinidog yn parhau.

Byddwn yn ddiolchgar pe gallech roi'r wybodaeth ddiweddaraf i'r Pwyllgor am y gwaith y mae'r Cynulliad yn ei wneud:

1. i sicrhau bod gan y Cynulliad gapasiti i wneud y gwaith pwysig hwn ar ddatganoli cyllidol yn y blynyddoedd nesaf
2. ac i sicrhau bod y Llywodraeth yn bwrw ymlaen â'r gwaith sydd ei angen i weithredu gweithdrefnau cyllidebol newydd.

Rwy'n anfon copi o'r llythyr hwn at Jane Hutt AC, o ystyried rôl y Llywodraeth yn y gwaith hwn. Yn ogystal, gan fod y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol wedi dangos diddordeb yn y maes hwn fel rhan o'i ymchwiliad cyfredol, rwyf hefyd yn anfon copi at David Melding AC.

Yn gywir



Jocelyn Davies

Cadeirydd



Eitem 5.2

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon