

Agenda – Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Lleoliad: I gael rhagor o wybodaeth cysylltwch a:
Ystafell Bwyllgora 1 – Y Senedd Gareth Williams
Dyddiad: Dydd Llun, 4 Chwefror 2019 Clerc y Pwyllgor
Amser: 14.30 0300 200 6362
SeneddMCD@cynulliad.cymru

1 Cyflwyniad, ymddiheuriadau, dirprwyon a datgan buddiannau

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

(Tudalennau 1 – 2)

CLA(5)–05–19 – Papur 1 – Offerynnau statudol sydd ag adroddiadau clir

Offerynnau'r Weithdrefn Penderfyniad Cadarnhaol

2.1 SL(5)306 – Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Meini Prawf Penodedig, Ffioedd a Ffioedd am Geisiadau Tybiedig) (Cymru) (Diwygio) 2019

3 Offerynnau a ystyriwyd yn flaenorol ar gyfer sifftio ac sydd bellach yn destun craffu o dan Reolau Sefydlog 21.2 a 21.3

(Tudalennau 3 – 6)

CLA(5)–05–19 – Papur 2 – Adroddiadau clir ag eithrio pwynt rhinweddau

sengl o dan Reol Sefydlog 21.3 (wedi bod yn destun sifftio)

3.1 SL(5)307 – Rheoliadau Da Byw (Cofnodion, Adnabod a Symud) (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019

3.2 SL(5)308 – Rheoliadau Sgîl-gynhyrchion Anifeiliaid ac Enseffalopathïau Sbyngffurf Trosglwyddadwy (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019



3.3 SL(5)309 – Rheoliadau Etholiadau (Cymru) (Diwygio) (Ymadael â'r UE) 2019

3.4 SL(5)311 – Rheoliadau Taliadau Gwasanaeth(Gofynion Ymgynghori) (Cymru) (Diwygio) (Ymadael â'r UE) 2019

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

Offerynnau'r Penderfyniad Negyddol

4.1 SL(5)304 – Rheoliadau Adnabod Ceffylau (Cymru) 2019

(Tudalennau 7 – 46)

CLA(5)–05–19 – Papur 3 – Adroddiad

CLA(5)–05–19 – Papur 4 – Rheoliadau

CLA(5)–05–19 – Papur 5 – Memorandwm Esboniadol

4.2 SL(5)301 – Rheoliadau Ardaloedd Rheoli Mwg (Tanwyddau Awdurdodedig) (Cymru) 2019

(Tudalennau 47 – 48)

CLA(5)–05–19 – Papur 30 – Ymateb y Llywodraeth

CLA(5)–05–19 – Papur 31 – Adroddiad

5 Offerynnau negyddol arfaethedig nad ydynt yn cynnwys materion i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3B

(Tudalen 49)

CLA(5)–04–19 – Papur 6 – Offerynnau statudol negyddol arfaethedig sydd ag adroddiadau clir

5.1 pNeg(5)15 – Rheoliadau Adnabod Ceffylau (Cymru) (Diwygio) (Ymadael â'r UE) 2019

5.2 pNeg(5)16 – Rheoliadau Teithio gan Ddysgwyr (Cymru) (Diwygio) (Ymadael â'r UE) 2019

6 Offerynnau Statudol sydd angen Cydsyniad: Brexit

6.1 SICM(5)18 – Rheoliadau Gwrteithiau a Deunydd Amoniwrm Nitrad (Diwygio) (Ymadael â'r UE) 2019

(Tudalennau 50 – 76)

CLA(5)–05–19 – Papur 7 – Llythyr gan Weinidog yr Amgylchedd, Ynni a Materion Gwledig

CLA(5)– 05–19 – Papur 8 – Memorandwm Cydsyniad Offeryn Statudol

CLA(5)–05–19 – Papur 9 – Rheoliadau

CLA(5)–05–19 – Papur 10 – Memorandwm Esboniadol

CLA(5)–05–19 – Papur 11 – Adroddiad

7 Datganiadau ysgrifenedig o dan Reol Sefydlog 30C

7.1 WS–30C(5)78 – Rheoliadau Mewnforio a Masnachu Anifeiliaid a Chynhyrchion Anifeiliaid (Diwygio etc.) (Ymadael â'r UE) 2019

(Tudalennau 77 – 85)

CLA(5)–05–19 – Papur 12 – Datganiad

CLA(5)– 05–19 – Papur 13 – Sylwebaeth

7.2 WS–30C(5)79 – Rheoliadau Iechyd Anifeiliaid Dyfrol ac Iechyd Planhigion (Swyddogaethau Deddfwriaethol) (Ymadael â'r UE) 2019

(Tudalennau 86 – 89)

CLA(5)–05–19 – Papur 14 – Datganiad

CLA(5)– 05–19 – Papur 15 – Sylwebaeth

7.3 WS-30C(5)80 – Rheoliadau Cemegion (Iechyd a Diogelwch) ac Organeddau a Addaswyd yn Enetig (Defnydd Cyfyngedig) (Diwygio etc.) (Ymadael â'r UE) 2019

(Tudalennau 90 – 94)

CLA(5)-05-19 – Papur 16 – Datganiad

CLA(5)-05-19 – Papur 17 – Sylwebaeth

7.4 WS-30C(5)81 – Rheoliadau Cymorth Gwladwriaethol (Ymadael â'r UE) 2019

(Tudalennau 95 – 103)

CLA(5)-05-19 – Papur 18 – Datganiad

CLA(5)-05-19 – Papur 19 – Llythyr gan y Cwnsler Cyffredinol

CLA(5)-05-19 – Papur 20 – Sylwebaeth

7.5 WS-30C(5)82 – Rheoliadau Caffael Cyhoeddus (Diwygio) (Ymadael â'r UE) 2019

(Tudalennau 104 – 108)

CLA(5)-05-19 – Papur 21 – Datganiad

CLA(5)-05-19 – Papur 22 – Sylwebaeth

8 Papurau i'w nodi

8.1 Llythyr gan yr Arglwydd Boswell Cadeirydd Pwyllgor Undeb Ewropeaidd Tŷ'r Arglwyddi: Cysylltiadau rhyng-sefydliadol rhwng y DU a'r UE ar ôl ymadael â'r UE, a rôl y sefydliadau datganoledig

(Tudalennau 109 – 110)

CLA(5)-05-19 – Papur 23 – Llythyr gan yr Arglwydd Boswell: Cysylltiadau rhyng-sefydliadol rhwng y DU a'r UE ar ôl ymadael â'r UE, a rôl y sefydliadau datganoledig

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

10 Memorandwm Cydsyniad Deddfwriaethol ar Fil Pysgodfeydd y DU: Adroddiad Drafft

(Tudalennau 111 – 146)

CLA(5)–05–19 – Papur 24 – Adroddiad drafft

CLA(5)–09–19 – Papur 25 – Llythyr gan Weinidog yr Amgylchedd, Ynni a Materion Gwledig at y Pwyllgor Newid Hinsawdd, Amgylchedd a Materion Gwledig, 22 Ionawr 2019

CLA(5)–05–19 – Papur 26 – Llythyr gan Weinidog yr Amgylchedd, Ynni a Materion Gwledig, 29 Ionawr 2019

CLA(5)–05–19 – Papur 27 – Cofnod y Trafodion, 21 Ionawr 2019

11 Memorandwm Cydsyniad Deddfwriaethol: Y Bil Lles Anifeiliaid (Anifeiliaid Gwasanaeth)

(Tudalennau 147 – 151)

CLA(5)–05–19 – Papur 28 – Nodyn Cyngor Cyfreithiol

CLA(5)–05–19 – Papur 32 – Memorandwm Cydsyniad Deddfwriaethol: Y Bil Lles Anifeiliaid (Anifeiliaid Gwasanaeth)

12 Craffu ar reoliadau a wnaed o dan Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018: Diweddariad

(Tudalennau 152 – 153)

CLA(5)–05–19 – Papur 29 – Diweddariad

Offerynnau Statudol sydd ag Adroddiadau Clir 04 Chwefror 2019

SL(5)306 – Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Meini Prawf Penodedig, Ffioedd a Ffioedd am Geisiadau Tybiedig) (Cymru) (Diwygio) 2019

Gweithdrefn: Cadarnhaol

O ganlyniad i Ddeddf Cymru 2017, mae'r swyddogaeth o roi cydsyniad mewn perthynas â'r canlynol wedi'i ddatganoli i Weinidogion Cymru ("prosiectau newydd datganoledig"):

(a) Cydsynio i orsafoedd cynhyrchu ar y tir ac ar y môr gyda chapasiti o 350MW neu lai;

a

(b) Chydsynio i linellau uwchben gyda foltedd nominal o 132KV neu lai, lle maen nhw'n gysylltiedig â gorsaf gynhyrchu ddatganoledig.

Gorsafoedd cynhyrchu ar y tir

Ar hyn o bryd, y sefyllfa ddiodyn yw y bydd cydsynio o ran prosiectau newydd datganoledig yn gofyn am ganiatâd cynllunio gan yr Awdurdod Cynllunio Lleol. Mae hyn yn creu sefyllfa anffafriol lle mae Gweinidogion Cymru yn cydsynio i brosiectau graddfa lai sydd wedi'u datganoli eisoes, tra bod Awdurdodau Cynllunio Lleol ar lefel leol yn cydsynio i orsafoedd cynhyrchu ar raddfa fwy. Mae'r Rheoliadau hyn yn newid yr anghysondeb hwn drwy sicrhau bod gweithdrefn gydsynio gymesur ar waith.

Llinellau trydan uwchben

Y sefyllfa ddiodyn ers i Ddeddf Cymru 2017 ddod i rym yw mai cyfrifoldeb yr Awdurdod Cynllunio Lleol ar lefel leol yw cydsynio i linellau trydan uwchben hyd at ac yn cynnwys 132KV sy'n gysylltiedig â gorsaf gynhyrchu



ddatganoledig. Mae'r Rheoliadau hyn yn trosglwyddo'r cyfrifoldeb i Weinidogion Cymru er mwyn i'r penderfyniad gael ei wneud ar lefel genedlaethol.

Storio trydan

Mae'r Rheoliadau hyn yn diddymu prosiectau storio trydan ar raddfa fach o'r broses Datblygiadau o Arwyddocâd Cenedlaethol, er mwyn i'r Awdurdodau Cynllunio Lleol wneud penderfyniadau ar y lefel leol. Caiff cynlluniau o ran storio hydrodrydanol eu cadw fel rhan o'r broses Datblygiadau o Arwyddocâd Cenedlaethol.

Newidiadau i ffioedd ar gyfer ceisiadau tybiedig

Mae'r Rheoliadau hyn hefyd yn gwneud newidiadau i Reoliadau Cynllunio Gwlad a Thref (Ffioedd am Geisiadau, Ceisiadau Tybiedig ac Ymweliadau Safle) (Cymru) 2015 i ganiatáu i ffi fod yn daladwy i'r Awdurdod Cynllunio Lleol mewn perthynas â chais tybiedig mewn rhai amgylchiadau lle byddai'r cais, fel arall, wedi'i wneud i Weinidogion Cymru.

Rhiant–Ddeddf: Deddf Cynllunio Gwlad a Thref 1990

Fe'u gwnaed ar:

Fe'u gosodwyd ar:

Yn dod i rym ar:



Offerynnau Statudol sydd ag adroddiadau clir, a ystyriwyd yn flaenrol ar gyfer sifftio ac sydd bellach yn ddarostyngedig i graffu o dan Reolau Sefydlog 21.2 a 21.3

4 Chwefror 2019

Cafodd yr offerynnau canlynol eu hystyried yn flaenrol i'w sifftio yn unol â Rheol Sefydlog 21.3B. Yn y broses sifft, cytunodd y Pwyllgor ym mhob achos mai'r weithdrefn briodol ar gyfer y Rheoliadau oedd y weithdrefn penderfyniad negyddol. Bellach mae'r offerynnau yn ddarostyngedig i graffu arferol yn unol â Rheolau Sefydlog 21.2 a 21.3. Er bod gan yr holl offerynnau adroddiadau clir, maent hefyd yn cynnwys pwynt o ran rhinweddau i amlygu'r broses sifftio:

Rheol Sefydlog 21.3(ii) - ei fod o bwysigrwydd gwleidyddol neu gyfreithiol neu ei fod yn codi materion polisi cyhoeddus sy'n debyg o fod o ddiddordeb i'r Cynulliad. Gosodwyd drafft o'r Rheoliadau hyn gerbron y Cynulliad ar gyfer sifftio yn unol â pharagraff 4 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018. Cytunodd y Pwyllgor mai'r weithdrefn negyddol yw'r weithdrefn briodol ar gyfer y Rheoliadau hyn

SL(5)307 – Rheoliadau Da Byw (Cofnodion, Adnabod a Symud) (Diwygiadau Amrywiol) (Cymru) (Ymadael â'r UE) 2019

Y weithdrefn: Negyddol

Gwneir y rheoliadau hyn i arfer y pwerau a roddir gan baragraff 1(1) o Atodlen 2 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 er mwyn mynd i'r afael â methiannau cyfraith yr UE a ddargedwir i weithredu'n effeithiol, a diffygion eraill sy'n deillio o ymadawiad y Deyrnas Unedig â'r Undeb Ewropeaidd. Mae'r Rheoliadau hyn yn diwygio'r is-ddeddfwriaeth a ganlyn, sy'n gymwys o ran Cymru, ym meysydd cofnodi, adnabod a symud da byw.

Rheoliadau Adnabod Gwartheg (Cymru) 2007;

Gorchymyn Moch (Cofnodion, Adnabod a Symud) (Cymru) 2011; a



Gorchymyn Defaid a Geifr (Cofnodion, Adnabod a Symud) (Cymru) 2015.

Rhiant–Ddeddf: Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018

Gofynion sifftio wedi eu bodloni: 14 Ionawr 2019

Fe’u gwnaed ar: 21 Ionawr 2019

Fe’u gosodwyd ar: 24 Ionawr 2019

Yn dod i rym ar: Yn dod i rym yn unol â rheoliad 1(2)

SL(5)308 – Rheoliadau Sgil–gynhyrchion Anifeiliaid ac Enseffalopathïau Sbyngffurf Trosglwyddadwy (Diwygiadau Amrywiol) (Cymru) (Ymadael â’r UE) 2019

Y weithdrefn: Negyddol

Bydd yr offeryn yn rhoi sylw i fethiannau o ran deddfwriaeth ddomestig sy’n deillio o ymadawiad y DU â’r Undeb Ewropeaidd, ac yn sicrhau y bydd rheolaethau ar Sgil–gynhyrchion Anifeiliaid ac Enseffalopathïau Sbyngffurf Trosglwyddadwy yn parhau i weithredu pan fyddwn wedi ymadael â’r UE i ddiogelu iechyd anifeiliaid ac iechyd y cyhoedd.

Mae rheolau’r UE ar gyfer rheoli Enseffalopathïau Sbyngffurf Trosglwyddadwy a Sgil–gynhyrchion Anifeiliaid o leiaf cystal â, ac mewn rhai achosion yn well na’r safonau rhyngwladol a osodwyd gan Sefydliad Iechyd Anifeiliaid y Byd (Office International des Epizooties – OIE). Er na fydd rhwymedigaeth gyfreithiol ar y DU i ymlynu â rheolau’r UE o ran rheoli Enseffalopathïau Sbyngffurf Trosglwyddadwy a Sgil–gynhyrchion Anifeiliaid ar ôl ymadael â’r UE, o ganlyniad i’r hanes am yr epidemig Enseffalopathi Sbyngffurf Buchol (BSE) yn Ewrop (yn enwedig o fewn y DU yn yr 1980/ 90au), bydd trydydd wledydd yn disgwyl i’r DU o leiaf efelychu prif reolaethau’r UE, er bod y rhain yn mynd y tu hwnt i safonau diogelu OIE.

Rhiant–Ddeddf: Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018

Gofynion sifftio wedi eu bodloni: 14 Ionawr 2019



Fe'u gwnaed ar: 21 Ionawr 2019

Fe'u gosodwyd ar: 24 Ionawr 2019

Yn dod i rym ar: Yn dod i rym yn unol â rheoliad 1(2)

SL(5)309 – Rheoliadau Etholiadau (Cymru) (Diwygio) (Ymadael â'r UE) 2019

Y weithdrefn: Negyddol

Mae'r offeryn hwn yn dileu cyfeiriadau at Aelodau o Senedd Ewrop, Senedd Ewrop ac etholiadau i Senedd Ewrop na fyddant eu hangen wedi'r dyddiad ymadael. Ni wneir unrhyw ddarpariaeth yn eu lle.

Rhiant–Ddeddf: Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018

Gofynion sifftio wedi eu bodloni: 7 Ionawr 2019

Fe'u gwnaed ar: 24 Ionawr 2019

Fe'u gosodwyd ar: 28 Ionawr 2019

Yn dod i rym ar: Yn dod i rym yn unol â rheoliad 1

SL(5)311 – Rheoliadau Taliadau Gwasanaeth (Gofynion Ymgynghori) (Cymru) (Diwygio) (Ymadael â'r UE) 2019

Y weithdrefn: Negyddol

Mae'r offeryn hwn yn diwygio Rheoliadau Taliadau Gwasanaeth (Gofynion Ymgynghori) (Cymru) 2004 trwy ddileu cyfeiriad at Swyddfa Gyhoeddi'r Undeb Ewropeaidd a rhoddi yn ei le gyfeiriad at drefn e-hysbysu y DU. Bydd y cyfeiriad hwnnw yn un at ddiffiniad sydd i'w fewnosod yn rheoliad 5 o Reoliadau Contractau Cyhoeddus 2015 gan reoliad 5 o Reoliadau Caffael Cyhoeddus (Diwygio etc) (Ymadael â'r UE) 2019. Cafodd drafft o'r Rheoliadau hynny eu gosod mewn drafft gerbron Senedd y DU.

Rhiant–Ddeddf: Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018



Gofynion sifftio wedi eu bodloni: 21 Ionawr 2019

Fe'u gwnaed ar: 24 Ionawr 2019

Fe'u gosodwyd ar: 28 Ionawr 2019

Yn dod i rym ar: Yn dod i rym yn unol â rheoliad 1



SL(5)304 - Rheoliadau Adnabod Ceffylau (Cymru) 2019

Cefndir a Diben

Mae'r Rheoliadau hyn yn ategu, ac yn gwneud darpariaeth ar gyfer gorfodi Rheoliad Gweithredu'r Comisiwn (UE) 2015/262 (Rheoliad yr UE) yng Nghymru. Mae'r Rheoliadau'n darparu ar gyfer adnabod cheffylau, ac yn disodli Rheoliadau Adnabod Ceffylau (Cymru) 2009 (Rheoliadau 2009).

Mae Rhan 2 yn cynnwys darpariaethau sy'n nodi amrywiol ofynion gweinyddol a gweithdrefnol. Mae'r rhain yn cynnwys gofynion mewn perthynas ag adnabod cheffylau a'r ddogfen adnabod mewn perthynas â cheffylau.

Mae Rhan 3 yn cynnwys eithriadau o ran cheffylau sy'n byw o dan amodau gwyllt neu lled-wyllt.

Mae Rhan 4 yn nodi amryw o droseddau o ran torri'r Rheoliadau hyn a Rheoliad yr UE.

Mae Rhan 5 yn cynnwys darpariaethau ynghylch gorfodi a chosbau, ac mae'n rhoi pwerau i arolygwyr a benodir gan Weinidogion Cymru neu awdurdod gorfodi (awdurdod lleol).

Mae Rhan 6 yn darparu ar gyfer cosbau sifil sydd ar gael i awdurdodau gorfodi.

Mae Rhan 7 yn dirymu Rheoliadau 2009.

Y weithdrefn

Negyddol.

Materion technegol: craffu

Nodir un pwynt ar gyfer adrodd o dan Reol Sefydlog 21.2 (v) (sydd angen eglurhad pellach ar ei ffurf neu ei ystyr am unrhyw reswm penodol) mewn cysylltiad â'r offeryn hwn.

Mae rheoliad 8 (yn Rhan 2 o'r Rheoliadau) yn ei gwneud yn ofynnol i berchennog ofyn i'r corff sy'n ei gyhoeddi, i addasu neu ddiweddarau dogfen adnabod cheffyl, os yw'r person cyfrifol (y perchennog neu'r ceidwad) yn credu bod unrhyw fanylion adnabod yn nogfen adnabod y cheffyl angen ei addasu neu'i ddiweddarau. Mewn achosion lle nad yw'r person cyfrifol yn berchennog (ond y ceidwad), efallai y bydd potensial i berchennog beidio â bod yn ymwybodol o gred y ceidwad bod angen diwygio'r ddogfen adnabod. Nid yw Rheoliad 8 yn cynnwys gofyniad i'r person cyfrifol (lle mae hwn yn geidwad y cheffyl, ac nid yn berchennog) i roi gwybod i'r perchennog ei gred bod angen diwygio'r ddogfen adnabod. Mae rheoliad 22(1) yn darparu bod perchennog yn euog o dramgwydd os yw'r perchennog yn torri gwaharddiad, neu'n methu â chydymffurfio â gofyniad sy'n gymwys i berchennog, gan gynnwys o dan Ran 2. O'r herwydd, mae potensial i berchennog gyflawni trosedd, a chael ei gosbi am y drosedd honno, hyd yn oed lle nad oedd y perchennog yn gwybod, ac efallai na allai fod wedi gwybod, bod angen diwygio dogfen adnabod y cheffyl.

Mae'r rheoliadau cyfatebol ar gyfer Lloegr, Rheoliadau Adnabod Ceffylau (Lloegr) 2018 (Rheoliadau Lloegr), yn gwneud darpariaeth yn rheoliad 8 ar gyfer addasu manylion adnabod. Fodd bynnag, mae hyn yn ei gwneud yn ofynnol i'r perchennog ofyn i'r corff cyhoeddi addasu neu ddiweddarau'r ddogfen adnabod os yw'r "perchennog yn credu bod angen addasu neu ddiweddarau unrhyw fanylion adnabod



sydd yn nogfen adnabod ceffyl". O'r herwydd, nid yw'r un mater yn bodoli yn y Rheoliadau yn Lloegr ag y nodir uchod o ran Cymru. O dan Reoliadau Lloegr, byddai perchennog yn cyflawni trosedd o ran peidio â chydymffurfio â rheoliad 8, dim ond pe na bai'n gofyn iddynt wneud newidiadau yr oedd ef o'r farn bod angen eu gwneud.

Rhinweddau: craffu

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

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Gwneir y Rheoliadau hyn o dan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 ac maent yn rhan o "ddeddfwriaeth ddomestig sy'n deillio o'r UE" o dan adran 2 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, felly caiff y Rheoliadau hyn eu dargadw fel cyfraith ddomestig a byddant yn parhau i fod mewn grym yng Nghymru ar y diwrnod ymadael ac ar ôl hynny.

Ymateb y Llywodraeth

Mae angen ymateb gan y Llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

30 Ionawr 2019



OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 57 (Cy. 20)

ANIFEILIAID, CYMRU

**Rheoliadau Adnabod Ceffylau
(Cymru) 2019**

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn cydategu Rheoliad Gweithredu'r Comisiwn (EU) 2015/262 ("Rheoliad yr UE"), ac yn gwneud darpariaeth ar gyfer gorfodi'r Rheoliad hwnnw, yng Nghymru. Maent yn darparu ar gyfer adnabod ceffylau ac yn disodli Rheoliadau Adnabod Ceffylau (Cymru) 2009 (O.S. 2009/2470) (Cy. 199).

Mae Rhan 2 o'r Rheoliadau'n cynnwys darpariaethau sy'n nodi amryw o ofynion gweinyddol a gweithdrefnol. Yn benodol, mae rheoliad 3 yn dynodi Gweinidogion Cymru yn awdurdod cymwys ac yn awdurdod sootechnegol at ddibenion Rheoliad yr UE. Mae darpariaethau eraill yn Rhan 2 yn nodi amryw o ofynion mewn perthynas ag adnabod ceffylau a'r ddogfen adnabod mewn perthynas â cheffyl.

Mae Rhan 3 yn nodi amryw o eithriadau mewn perthynas â cheffylau sy'n byw o dan amodau gwyllt neu led-wyllt.

Mae Rhan 4 yn nodi amryw o droseddau ynglŷn â thorri darpariaethau yn y Rheoliadau hyn ac yn Rheoliad yr UE.

Mae Rhan 5 yn cynnwys darpariaethau ynghylch gorfodi a chosbi ac yn rhoi pwerau i arolygwyr a benodir gan Weinidogion Cymru neu gan awdurdod gorfodi. Yn benodol, mae rheoliad 35 yn darparu y caiff awdurdodau gorfodi ddewis cymhwyso sancsiynau sifil yn hytrach na chosbau troseddol pan fyddant yn siŵr bod trosedd wedi ei chyflawni. Mae Rhan 6 wedyn yn nodi'r sancsiynau sifil sydd ar gael i'r awdurdodau gorfodi.

Mae Rhan 7 yn cynnwys darpariaeth ynglŷn â dirymu Rheoliadau Adnabod Ceffylau (Cymru) 2009.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth Lywodraeth Cymru, Parc Cathays, Caerdydd CF10 3NQ.

OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 57 (Cy. 20)

ANIFEILIAID, CYMRU

**Rheoliadau Adnabod Ceffylau
(Cymru) 2019**

Gwnaed 15 Ionawr 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 17 Ionawr 2019

Yn dod i rym yn unol â rheoliad 1

CYNNWYS

RHAN 1

Rhagarweiniol

1. Enwi, cychwyn a chymhwyso
2. Dehongli

RHAN 2

**Darpariaethau a gofynion gweinyddol a
gweithdrefnol**

3. Awdurdod cymwys ac awdurdod sootechnegol at ddibenion Rheoliad yr UE
4. Trosglwyddo perchnogaeth ceffylau
5. Adnabod ceffylau
6. Ceisiadau am ddogfennau adnabod
7. Cwblhau dogfennau adnabod presennol ceffylau a fewnforiwyd i'r Undeb Ewropeaidd
8. Addasu manylion adnabod mewn dogfennau adnabod
9. Ffurf a chynnwys dogfennau adnabod
10. Dilysu dogfennau adnabod
11. Gofyniad i ddarparu dogfen adnabod i filfeddyg sy'n trin ceffyl
12. Cigydda ceffyl, marwolaeth ceffyl neu golli ceffyl
13. Trawsatebyddion

14. Cardiau clyfar
15. Cronfeydd data

RHAN 3

Ceffylau yn byw o dan amodau gwyllt neu led-wyllt

16. Eithriadau mewn cysylltiad â cheffylau gwyllt neu led-wyllt penodol
17. Gofyniad ynghylch dogfen adnabod a thrawsatebydd i geffylau gwyllt neu led-wyllt a drinnir â chynhyrchion meddyginiaethol milfeddygol
18. Ceffylau gwyllt a led-wyllt: gofyniad ynghylch dogfen adnabod i symud o ardal ddynodedig
19. Eithriad i'r gofyniad ynghylch dogfen adnabod: ceffylau gwyllt neu led-wyllt a symudir am resymau lles neu i'w cigydda
20. Gofynion ynglŷn â cheffylau gwyllt neu led-wyllt 12 mis oed neu drosodd a symudir i'w cigydda
21. Gofynion ynglŷn â cheffylau gwyllt neu led-wyllt a symudir heblaw i'w cigydda

RHAN 4

Troseddau

22. Cyffredinol
23. Cadw dogfen adnabod yn ôl oddi wrth y person cyfrifol
24. Darparu gwybodaeth ffug neu gamarweiniol
25. Meddu ar ddogfen adnabod a ffugwyd
26. Dinistrio, difwyno neu newid etc yn amhriodol
27. Troseddau ynghylch mewnbrannu trawsatebydd
28. Rhwystro
29. Troseddau gan gyrff corfforaethol
30. Troseddau gan bartneriaethau a chymdeithasau anghorfforedig

RHAN 5

Gorfodi a chosbi

31. Awdurdodau gorfodi
32. Penodi arolygwyr
33. Arolygwyr: pwerau i fynd i mewn a phwerau cyffredinol
34. Cosbau troseddol

35. Dewis mynd ar ôl sancsiynau sifil yn lle cosbau troseddol

RHAN 6

Sancsiynau sifil

36. Eu cymhwyso
37. Hysbysiad cydymffurfio
38. Hysbysiad cosb am beidio â chydymffurfio
39. Hysbysiad cosb ariannol benodedig
40. Hysbysiad adennill costau gorfodi
41. Gwybodaeth i'w darparu mewn hysbysiad neu gydag ef
42. Tynnu hysbysiad yn ôl a'i ail-ddyroddi
43. Apelio
44. Y cyfnod y mae angen talu o'i fewn a'r pŵer i adennill taliadau
45. Derbyniadau

RHAN 7

Amrywiol

46. Dirymu Rheoliadau Adnabod Ceffylau (Cymru) 2009

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

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddir gan adran 2(2) o Ddeddf 1972(3) a chan baragraff 1A o Atodlen 2 i'r Ddeddf honno.

-
- (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. Mae wedi ei diddymu yn rhagolygol gan adran 1 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16) o'r diwrnod ymadael (gweler adran 20 o'r Ddeddf honno).
(3) Mewnosodwyd paragraff 1A o Atodlen 2 i Ddeddf y Cymunedau Ewropeaidd 1972 gan adran 28 o Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006. Fe'i diwygiwyd gan adran 3(3) o Ddeddf yr Undeb Ewropeaidd (Diwygio) 2008, a Rhan 1 o'r Atodlen i'r Ddeddf honno a chan O.S. 2007/1388. Mae wedi ei diddymu yn rhagolygol gan adran 1 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 o'r diwrnod ymadael (gweler adran 20 o'r Ddeddf honno).

Mae'r Rheoliadau hyn yn gwneud darpariaeth ar gyfer diben a grybwyllir yn adran 2(2) o Ddeddf 1972, ac mae'n ymddangos i Weinidogion Cymru yn hwylus i gyfeiriadau yn y rheoliadau hyn at ddarpariaethau yn offerynnau'r Undeb Ewropeaidd gael eu dehongli fel cyfeiriadau at y darpariaethau hynny fel y'u diwygir o bryd i'w gilydd.

RHAN 1

Rhagarweiniol

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Adnabod Ceffylau (Cymru) 2019 a, heblaw rheoliad 13(3)(c), daw'r Rheoliadau hyn i rym ar 12 Chwefror 2019.

(2) Daw rheoliad 13(3)(c) i rym ar 12 Chwefror 2021.

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

Dehongli

2. Yn y Rheoliadau hyn—

ystyr “ardal ddynodedig” (“*designated area*”) yw ardal a ddisgrifir felly yn rheoliad 16;

ystyr “arolygydd” (“*inspector*”) yw person a benodir yn arolygydd o dan reoliad 32 neu o dan Ddeddf Iechyd Anifeiliaid 1981(1);

ystyr “awdurdod gorfodi” (“*enforcing authority*”) yw awdurdod lleol sy'n syrthio o fewn rheoliad 31;

ystyr “ceffyl” (“*equine*”) yw anifail carngaled, gwyllt, lled-wyllt neu ddof, o fewn y genws *Equus* o'r teulu *Equidae*, a chroesiadau rhwng anifeiliaid o'r fath;

ystyr “ceffyl gwyllt neu led-wyllt” (“*wild or semi-wild equine*”) yw ceffyl sy'n syrthio o fewn rheoliad 16(1);

mae i “ceidwad” yr ystyr a roddir i “*keeper*” yn Erthygl 2;

ystyr “corff dyroddi” (“*issuing body*”) yw corff dyroddi fel y cyfeirir at “*issuing body*” yn Erthygl 5(1);

mae i “cosb am beidio â chydymffurfio” (“*non-compliance penalty*”) yr ystyr a roddir yn rheoliad 38;

mae i “cosb ariannol benodedig” (“*fixed monetary penalty*”) yr ystyr a roddir yn rheoliad 39;

(1) 1981 p. 22.

ystyr “costau gorfodi” (“*enforcement costs*”) yw’r costau y mae’n ofynnol i berson eu talu o dan hysbysiad adennill costau gorfodi;

ystyr “dogfen adnabod” (“*ID*”) yw’r ddogfen adnabod at adnabod ceffyl yn unol â Rheoliad yr UE a’r Rheoliadau hyn;

ystyr “Erthygl” (“*Article*”) yw Erthygl yn Rheoliad yr UE;

mae i “hysbysiad adennill costau gorfodi” (“*enforcement costs recovery notice*”) yr ystyr a roddir yn rheoliad 40;

mae i “hysbysiad cosb am beidio â chydymffurfio” (“*non-compliance penalty notice*”) yr ystyr a roddir yn rheoliad 38;

mae i “hysbysiad cosb ariannol benodedig” (“*fixed monetary penalty notice*”) yr ystyr a roddir yn rheoliad 39;

mae i “hysbysiad cydymffurfio” (“*compliance notice*”) yr ystyr a roddir yn rheoliad 37;

mae i “milfeddyg swyddogol” yr ystyr a roddir i “*official veterinarian*” yn Erthygl 2;

ystyr “o fewn 24 awr” (“*within 24 hours*”) yw cyn diwedd y cyfnod o 24 awr sy’n dechrau â’r amser—

- (a) y caiff yr wybodaeth ei chreu neu ei diwygio, at ddibenion rheoliad 15(1)(a); neu
- (b) y caiff y corff dyroddi gais Gweinidogion Cymru, at ddibenion rheoliad 15(1)(b),

ond heb gynnwys unrhyw amser nad yw’n rhan o ddiwrnod gwaith; ac at y diben hwn ystyr “diwrnod gwaith” (“*working day*”) yw diwrnod heblaw dydd Sadwrn, dydd Sul, dydd Nadolig, Dydd Gwener y Groglith neu ddiwrnod sy’n wyl banc o fewn ystyr Deddf Bancio a Thrafodion Ariannol 1971(1);

mae i “perchennog” yr ystyr a roddir i “*owner*” yn Erthygl 2;

ystyr “person cyfrifol” (“*responsible person*”) yw—

- (a) y perchennog; neu
- (b) os nad y perchennog sy’n bennaf cyfrifol am y ceffyl o dan sylw o ddydd i ddydd, y ceidwad;

ystyr “Rheoliad yr UE” (“*EU Regulation*”) yw Rheoliad Gweithredu’r Comisiwn (EU) 2015/262 dyddiedig 17 Chwefror 2015(2) yn gosod rheolau yn unol â Chyfarwyddebau’r Cyngor

(1) 1971 c. 80.
(2) OJ Rhif L.59, 3.3.2015, t.1.

90/427/EEC(1) a 2009/156/EC(2) o ran dulliau adnabod equidae, fel y'u diwygir o dro i dro;

mae i "trawsatebydd" yr ystyr a roddir i "transponder" yn Erthygl 2;

mae i "troseddwr" ("offender") yr ystyr a roddir yn rheoliad 35(1).

RHAN 2

Darpariaethau a gofynion gweinyddol a gweithdrefnol

Awdurdod cymwys ac awdurdod sootechnegol at ddibenion Rheoliad yr UE

3. Gweinidogion Cymru yw'r awdurdod cymwys a'r awdurdod sootechnegol at ddibenion Rheoliad yr UE.

Trosglwyddo perchnogaeth ceffylau

4.—(1) Rhaid i berson sy'n trosglwyddo perchnogaeth ceffyl i berson arall (y "trosglwyddai") ddarparu dogfen adnabod y ceffyl hwnnw i'r trosglwyddai adeg y trosglwyddo.

(2) Cyn diwedd y cyfnod o 30 niwrnod sy'n dechrau â'r diwrnod y daeth y trosglwyddiad i rym, rhaid i'r trosglwyddai—

- (a) hysbysu'r awdurdod dyroddi—
 - (i) am drosglwyddiad y berchnogaeth; a
 - (ii) am enw, cyfeiriad a manylion cysylltu'r trosglwyddai; a
- (b) anfon dogfen adnabod y ceffyl o dan sylw at y corff dyroddi.

Adnabod ceffylau

5. Rhaid i berson beidio â chadw ceffyl oni bai bod y ceffyl wedi ei adnabod yn unol â Rheoliad yr UE a'r Rheoliadau hyn.

Ceisiadau am ddogfennau adnabod

6.—(1) At ddibenion Erthyglau 3(3) ac 11(2), rhaid i berchennog ceffyl a aned yn yr Undeb Ewropeaidd ac a leolir ar ddaliad yng Nghymru sicrhau bod cais am ddogfen adnabod i'r ceffyl hwnnw yn dod i law corff

-
- (1) OJ Rhif L 224, 18.8.1990, t. 55. Diwygiwyd y Gyfarwyddeb gan Gyfarwyddeb y Cyngor 2008/73/EC dyddiedig 15 Gorffennaf 2008 (OJ Rhif. L 219, 14.8.2008, t. 40).
 - (2) OJ Rhif L 192, 23.7.2010, t. 1. Diwygiwyd y Gyfarwyddeb gan Gyfarwyddeb y Cyngor 2013/20/EU dyddiedig 13 Mai 2013 (OJ Rhif L 158, 10.6.2013, t. 234 a chan Benderfyniad Gweithredu'r Comisiwn (EU) 2016/1840 dyddiedig 14 Hydref 2016 (OJ Rhif L 280, 18.10.2016, t. 33).

dyroddi heb fod yn hwyrach na 30 niwrnod cyn y dyddiad olaf ar gyfer dyroddi dogfen adnabod fel y'i nodir ym mharagraff (2).

(2) Y dyddiad terfynol yw'r hwyrach o'r ddau hyn—

- (a) 31 Rhagfyr ym mlwyddyn galendr genedigaeth y ceffyl; neu
- (b) 6 mis ar ôl dyddiad geni'r ceffyl.

(3) Rhaid anfon gyda'r cais unrhyw ffi a bennir gan y corff dyroddi y cyflwynir y cais iddo.

Cwblhau dogfennau adnabod presennol ceffylau a fewnforiwyd i'r Undeb Ewropeaidd

7. Rhaid i'r ceidwad ddarparu i'r corff dyroddi yr holl wybodaeth sy'n angenrheidiol i ganiatáu i'r corff gwblhau dogfen adnabod bresennol at ddibenion Erthygl 15(2), yn ddarostyngedig i Erthygl 15(3), fel ei bod yn cydymffurfio â gofynion Erthygl 7(2).

Addasu manylion adnabod mewn dogfennau adnabod

8. Os yw'r person cyfrifol yn credu bod angen i unrhyw fanylion adnabod a gynhwysir yn nogfen adnabod y ceffyl gael eu haddasu neu eu diweddarau, boed yn unol ag Erthygl 27(1) neu fel arall, rhaid i'r perchennog ofyn i'r corff dyroddi addasu'r ddogfen adnabod neu ei diweddarau.

Ffurf a chynnwys dogfennau adnabod

9.—(1) Mae corff dyroddi—

- (a) yn gorfod sicrhau bod unrhyw stoc o ddogfennau adnabod gwag a argraffwyd ymlaen llaw (“stoc wag a argraffwyd ymlaen llaw”) y mae'n ei dal neu'n ei chadw;
- (b) yn gorfod sicrhau bod unrhyw ddogfen adnabod y mae'n ei dyroddi o'r stoc wag hon a argraffwyd ymlaen llaw; ac
- (c) yn cael sicrhau bod dogfen adnabod y mae'n ei dyroddi heblaw o stoc wag a argraffwyd ymlaen llaw,

yn cydymffurfio â pharagraff (2).

(2) At ddibenion paragraff (1), rhaid i'r ddogfen adnabod neu'r stoc wag a argraffwyd ymlaen llaw gynnwys o leiaf rif cyfresol a argraffwyd ar bob un o'r tudalennau sy'n ffurfio adrannau I i III o'r ddogfen adnabod (fel y nodir yn Atodiad I i Reoliad yr UE).

(3) Rhaid i gorff dyroddi sicrhau bod yr holl ddogfennau adnabod a'r holl stoc wag a argraffwyd ymlaen llaw yn cael eu rheoli mewn modd diogel ar ei fangreoedd.

(4) Os bydd dogfen adnabod neu unrhyw stoc wag a argraffwyd ymlaen llaw wedi eu colli, yn eisiau neu wedi eu dwyn, rhaid i'r corff dyroddi o dan sylw—

- (a) hysbysu Gweinidogion Cymru cyn gynted â phosibl eu bod wedi eu colli, yn eisiau neu wedi eu dwyn; a
- (b) gyda'r hysbysiad a grybwyllwyd yn is-baragraff (a), hysbysu Gweinidogion Cymru—
 - (i) am yr amgylchiadau ynglŷn â'r ffaith eu bod wedi eu colli, yn eisiau neu wedi eu dwyn; a
 - (ii) am rifau cyfresol y ddogfen adnabod neu'r stoc wag a argraffwyd ymlaen llaw ac sydd o dan sylw.

(5) At ddibenion Erthygl 9(1)(c), fel y'i darllenir gydag Erthygl 10(3), ac yn ddarostyngedig i'r Erthygl honno, rhaid i'r corff dyroddi o dan sylw sicrhau bod adran IV (manylion perchnogaeth) dogfen adnabod wedi ei chwblhau cyn i'r ddogfen adnabod gael ei dyroddi o dan Erthygl 9.

(6) Caiff dogfen adnabod neu unrhyw ran ohoni fod mewn iaith ychwanegol.

Dilysu dogfennau adnabod

10. Os ceir cais gan Weinidogion Cymru, rhaid i gorff dyroddi ddilysu a yw dogfen adnabod a ddyroddwyd ganddo, neu y mae'n ymddangos ei bod wedi ei dyroddi ganddo, yn unigryw, yn wir ac yn ddilys.

Gofyniad i ddarparu dogfen adnabod i filfeddyg sy'n trin ceffyl

11.—(1) Mae'r rheoliad hwn yn gymwys os bydd milfeddyg yn trin ceffyl.

(2) Os ceir cais rhesymol gan y milfeddyg, rhaid i'r person cyfrifol ddarparu dogfen adnabod y ceffyl i'r milfeddyg yn ddi-oed.

Cigydda ceffyl, marwolaeth ceffyl neu golli ceffyl

12.—(1) Pan fo'n ofynnol, yn unol ag Erthygl 34(1)(c)(ii), i filfeddyg swyddogol, neu berson sy'n gweithredu o dan oruchwyliaeth milfeddyg swyddogol, ddychwelyd dogfen adnabod sydd heb ei dilysu i'r corff dyroddi, rhaid i'r milfeddyg swyddogol, neu'r person sy'n gweithredu o dan ei oruchwyliaeth, ddychwelyd y ddogfen adnabod honno i'r corff dyroddi cyn gynted ag y bo'n rhesymol ymarferol.

(2) Pan fo'n ofynnol, yn unol ag Erthygl 35(1), i geidwad ddychwelyd dogfen adnabod i'r corff dyroddi, rhaid i'r ceidwad ddychwelyd y ddogfen

adnabod honno i'r corff dyroddi o fewn cyfnod o 30 niwrnod ar ôl marwolaeth y ceffyl neu ar ôl colli'r ceffyl.

Trawsatebyddion

13.—(1) At ddibenion Erthygl 18(3), y cymhwyster gofynnol i'r person yr ymddiriedir ynddo i fewnblannu trawsatebydd yw aelodaeth o Goleg Brenhinol y Milfeddygon, ac yn y rheoliad hwn cyfeirir at y person hwnnw fel “milfeddyg”.

(2) Rhaid i filfeddyg sy'n mewnblannu trawsatebydd mewn ceffyl gymryd y mesurau a nodir yn Erthyglau 16 a 17(1) ar ran corff dyroddi.

(3) At ddibenion Erthygl 18(5), rhaid i'r person cyfrifol drefnu bod milfeddyg yn mewnblannu trawsatebydd mewn ceffyl y bernir ei fod wedi ei adnabod yn unol ag Erthyglau 4(2) neu 43(1)—

- (a) os bydd trawsatebydd a fewnblannwyd ac a gofnodwyd o'r blaen yn peidio â gweithredu;
- (b) os bydd y ceffyl yn cyrraedd Cymru ar ôl mynd drwy ddull arall o ddilysu ei fanylion adnabod a awdurdodwyd gan Aelod-wladwriaeth arall o dan Erthygl 21; neu
- (c) os yw'r ceffyl—
 - (i) heb fod yn syrthio o fewn is-baragraffau (a) neu (b);
 - (ii) heb gael trawsatebydd wedi ei fewnblannu eisoes i gydymffurfio â'r gofynion neu'r manylion ynglŷn â thrawsatebyddion a nodir yn Rheoliad yr UE neu Reoliad y Comisiwn (EC) Rhif 504/2008(1) dyddiedig 6 Mehefin 2008 yn gweithredu Cyfarwyddebau'r Cyngor 90/426/EEC a 90/427/EEC o ran dulliau adnabod equidae; a
 - (iii) wedi ei eni ar neu cyn 30 Mehefin 2009.

(4) Rhaid i filfeddyg sy'n mewnblannu trawsatebydd mewn ceffyl sicrhau bod y trawsatebydd yn dangos cod sy'n unigryw i'r trawsatebydd.

Cardiau clyfar

14.—(1) Caniateir i geffyl y mae dogfen adnabod wedi ei dyroddi ar ei gyfer gael ei symud neu ei gludo yng Nghymru, neu i Gymru o rannau eraill o'r Deyrnas Unedig, heb fod ei ddogfen adnabod gydag ef, os ceir cerdyn clyfar gydag ef sydd wedi ei ddyroddi yn unol ag Erthygl 25.

(2) Caiff Gweinidogion Cymru ddyroddi canllawiau ynghylch ffurf cardiau clyfar.

(1) OJ Rhif L 149, 7.6.2008, t. 3.

(3) Yn y rheoliad hwn, mae i “cerdyn clyfar” yr ystyr a roddir i “*smart card*” yn Erthygl 2.

Cronfeydd data

15.—(1) Rhaid i gorff dyroddi ddarparu’r wybodaeth a ganlyn i’r gronfa ddata ganolog—

- (a) o fewn 24 awr ar ôl i’r wybodaeth gael ei chreu neu ei diwygio gan y corff—
 - (i) y manylion adnabod a ddisgrifir yn Erthygl 27(1);
 - (ii) yr wybodaeth a gofnodwyd yng nghronfa ddata’r corff dyroddi o dan Erthygl 38(1);
- (b) o fewn 24 awr ar ôl cael cais gan Weinidogion Cymru, unrhyw wybodaeth arall (nad yw’n syrthio o fewn is-baragraff (a)) y mae’n rhesymol i Weinidogion Cymru ofyn amdani mewn perthynas â dyroddi unrhyw ddogfen adnabod gan y corff dyroddi neu mewn perthynas â chyflawni swyddogaethau’r corff dyroddi o dan y Rheoliadau hyn neu Reoliad yr UE.

(2) Yn dilyn cais mewn ysgriflen gan gorff dyroddi, caiff Gweinidogion Cymru ymestyn yr amser pryd y mae’r corff dyroddi i ddarparu’r wybodaeth o dan baragraff (1) i’r gronfa ddata ganolog.

(3) Rhaid i unrhyw estyniad amser o dan baragraff (2) gael ei hysbysu i’r corff dyroddi mewn ysgriflen.

(4) At ddibenion Erthygl 40(1), rhaid i gorff dyroddi ymgorffori’r wybodaeth sy’n syrthio o fewn Erthyglau 28(e) a 38(1) yn y gronfa ddata ganolog.

(5) Caiff Gweinidogion Cymru ddyroddi canllawiau i gyrff dyroddi ynghylch y gronfa ddata ganolog a sut i gofnodi gwybodaeth ynddi.

(6) Caiff Gweinidogion Cymru rannu unrhyw ddata neu wybodaeth sy’n cael eu dal neu eu storio yn y gronfa ddata ganolog, neu sydd i’w dal neu i’w storio ynddi, gyda’r Ysgrifennydd Gwladol, Gweinidogion yr Alban ac, yng Ngogledd Iwerddon, yr Adran Amaethyddiaeth, Amgylchedd a Materion Gwledig.

(7) Yn y rheoliad hwn, ystyr “cronfa ddata ganolog” yw’r gronfa ddata a sefydlwyd gan yr Ysgrifennydd Gwladol yn unol ag Erthygl 39.

RHAN 3

Ceffylau sy'n byw o dan amodau gwyllt neu led-wyllt

Eithriadau mewn cysylltiad â cheffylau gwyllt neu led-wyllt penodol

16.—(1) Mae'r rhanddirymiad yn Erthygl 13 yn gymwys mewn perthynas â cheffylau—

- (a) a nodir yn y rhestrau a gedwir gan Gymdeithasau Gwella Merlod Mynydd Cymru; neu
- (b) a nodir yn y rhestrau a gedwir gan Gymdeithas Merlod y Carneddau.

(2) At ddibenion Erthygl 13, fel y'i darllenir gydag Erthygl 43(3), yr ardaloedd (“ardaloedd dynodedig”) a ddiffinnir gan Weinidogion Cymru ac sy'n cynnwys cheffylau gwyllt neu led-wyllt nad oes angen eu hadnabod â dogfennau adnabod tra byddant yn aros o fewn yr ardaloedd dynodedig yw'r ardaloedd hynny a hysbyswyd gan Weinidogion Cymru i'r Comisiwn ar 17 Medi 2009.

(3) At ddibenion Erthygl 13(1), nid oes angen i geffylau gwyllt neu led-wyllt a drosglwyddir o dan oruchwyliaeth swyddogol o un o'r rhestrau a ddisgrifir ym mharagraff (1) i'r rhestr arall a ddisgrifir ym mharagraff (1) gael eu hadnabod â dogfennau adnabod.

(4) Rhaid i geffylau gwyllt neu led-wyllt sy'n byw mewn ardal ddynodedig gael eu hadnabod â dogfen adnabod pan ddechreuir eu defnyddio at ddibenion domestig.

Gofyniad ynghylch dogfen adnabod a thrawsatebydd i geffylau gwyllt neu led-wyllt a drinnir â chynhyrchion meddyginiaethol milfeddygol

17. Os trinnir ceffyl gwyllt neu led-wyllt sydd heb ddogfen adnabod mewn ardal ddynodedig ag unrhyw gynnyrch meddyginiaethol milfeddygol, rhaid i'r person cyfrifol sicrhau bod gan y ceffyl ddogfen adnabod a'i fod yn cael ei fewnblannu â thrawsatebydd—

- (a) yn unol â Rheoliad yr UE; a
- (b) o fewn 30 niwrnod ar ôl y driniaeth.

Ceffylau gwyllt a led-wyllt: gofyniad ynghylch dogfen adnabod i symud o ardal ddynodedig

18. Yn ddarostyngedig i reoliad 19, ni chaiff y person cyfrifol symud ceffyl gwyllt neu led-wyllt sydd heb ddogfen adnabod allan o ardal ddynodedig.

**Eithriad i'r gofyniad ynghylch dogfen adnabod:
ceffylau gwyllt neu led-wyllt a symudir am resymau
lles neu i'w cigydda**

19.—(1) Caiff y person cyfrifol symud ceffyl gwyllt neu led-wyllt allan o ardal ddynodedig heb ddogfen adnabod—

- (a) os yw'r ceffyl yn cael ei symud allan o'r ardal ddynodedig dros dro ac am resymau lles; neu
- (b) os yw'r ceffyl—
 - (i) yn llai na 12 mis oed a chanddo sêr deintyddol gweledol ar y blaendannedd ochrol dros dro;
 - (ii) yn cael ei symud yn uniongyrchol o'r ardal ddynodedig y'i ganed ynnddi i le i gael ei gigydda (boed ar gyfer ei fwyta gan bobl ai peidio);
 - (iii) heb gael ei drin o'r blaen ag unrhyw gynnyrch meddyginiaethol milfeddygol; a
 - (iv) â sticer a ddyroddwyd gan gorff dyroddi wedi ei osod arno cyn iddo ymadael â'r ardal ddynodedig, ac mae'n rhaid bod y sticer wedi ei farcio â rhif adnabod unigryw a'r dyddiad y cafodd ei osod ar y ceffyl.

(2) Rhaid i'r person cyfrifol sicrhau bod ceffyl sy'n syrthio o fewn paragraff (1)(b) yn cael ei gigydda o fewn 7 niwrnod ar ôl y dyddiad a welir ar y sticer.

**Gofynion ynglŷn â cheffylau gwyllt neu led-wyllt 12
mis oed neu drosodd a symudir i'w cigydda**

20.—(1) Mae'r rheoliad hwn yn gymwys i geffyl gwyllt neu led-wyllt—

- (a) sy'n 12 mis neu drosodd; a
- (b) sy'n cael ei symud o ardal ddynodedig i le i gael ei gigydda (boed ar gyfer ei fwyta gan bobl ai peidio).

(2) Rhaid i'r person cyfrifol sicrhau bod gan y ceffyl (yn ychwanegol at ddogfen adnabod) sticer a ddyroddwyd gan gorff dyroddi wedi ei osod arno cyn iddo ymadael â'r ardal ddynodedig, ac mae'n rhaid bod y sticer wedi ei farcio â rhif adnabod unigryw a'r dyddiad y cafodd ei osod ar y ceffyl.

(3) Rhaid i'r person cyfrifol sicrhau bod ceffyl sy'n syrthio o fewn paragraff (1) yn cael ei gigydda o fewn 7 niwrnod ar ôl y dyddiad a welir ar y sticer.

**Gofynion ynglŷn â cheffylau gwyllt neu led-wyllt a
symudir heblaw i'w cigydda**

21.—(1) Mae'r rheoliad hwn yn gymwys i geffyl gwyllt neu led-wyllt sydd—

- (a) o unrhyw oedran; a
- (b) yn cael ei symud o ardal ddynodedig i le arall (y “cyrchnod crynhoi”) at ddiben heblaw cigyddu.

(2) Rhaid i'r person cyfrifol sicrhau bod gan y ceffyl (yn ychwanegol at ddogfen adnabod) sticer a ddyroddwyd gan gorff dyroddi wedi ei osod arno cyn iddo ymadael â'r ardal ddynodedig, ac mae'n rhaid bod y sticer wedi ei farcio â rhif adnabod unigryw a'r dyddiad y cafodd ei osod ar y ceffyl.

(3) Rhaid i'r person cyfrifol sicrhau bod ceffyl sy'n syrthio o fewn paragraff (1) yn cyrraedd ei gyrchnod crynhoi o fewn 7 niwrnod ar ôl y dyddiad a welir ar y sticer.

(4) Rhaid i'r person cyfrifol sicrhau bod trawsatebydd yn cael ei fewnblannu yn y ceffyl cyn diwedd y cyfnod o 30 niwrnod sy'n dechrau â'r diwrnod y mae'r ceffyl yn cyrraedd y gyrchnod crynhoi.

(5) Heblaw dros dro neu am resymau lles, rhaid i'r person cyfrifol sicrhau nad yw'r ceffyl yn cael ei symud allan o'r gyrchnod crynhoi nes bod y trawsatebydd wedi ei fewnblannu.

RHAN 4

Troseddau

Cyffredinol

22.—(1) Mae perchennog yn euog o drosedd os yw'n torri gwaharddiad, neu'n methu â chydymffurfio â gofyniad, sy'n gymwys i berchennog (gan gynnwys perchennog yn rhinwedd ei swydd fel person cyfrifol) yn Rhannau 2 a 3 neu yn Rheoliad yr UE.

(2) Mae ceidwad yn euog o drosedd os yw'n torri gwaharddiad, neu'n methu â chydymffurfio â gofyniad, sy'n gymwys i geidwad (gan gynnwys ceidwad yn rhinwedd ei swydd fel person cyfrifol) yn Rhannau 2 a 3 neu yn Rheoliad yr UE.

(3) Mae corff dyroddi'n euog o drosedd os yw'n torri gwaharddiad, neu'n methu â chydymffurfio â gofyniad, sy'n gymwys i gorff dyroddi yn Rhannau 2 a 3 neu yn Rheoliad yr UE.

(4) Yn ddarostyngedig i baragraff (5), mae milfeddyg yn euog o drosedd os yw'n torri gwaharddiad, neu'n methu â chydymffurfio â gofyniad, sy'n gymwys i filfeddyg yn Rhannau 2 a 3 neu yn Rheoliad yr UE.

(5) Nid yw milfeddyg yn euog o unrhyw drosedd o fethu â chofnodi gwybodaeth mewn dogfen adnabod, neu fethu â diweddarau dogfen adnabod, os yw wedi gofyn i'r person cyfrifol am y ddogfen adnabod at y

diben hwnnw ac nad yw'r person cyfrifol yn darparu, neu nad yw wedi darparu, y ddogfen adnabod i'r milfeddyg.

Cadw dogfen adnabod yn ôl oddi wrth y person cyfrifol

23. Mae person yn euog o drosedd os yw, heb esgus rhesymol, yn cadw dogfen adnabod ceffyl yn ôl oddi wrth y person cyfrifol.

Darparu gwybodaeth ffug neu gamarweiniol

24. Mae person yn euog o drosedd os yw'n gwneud datganiad neu'n darparu gwybodaeth sy'n ffug neu'n gamarweiniol—

- (a) wrth wneud cais am ddyroddi neu amrywio dogfen adnabod;
- (b) mewn perthynas â chofnodi gwybodaeth mewn dogfen adnabod neu â chofrestru dogfen adnabod; neu
- (c) i unrhyw berson sy'n gweithredu mewn perthynas â gorfodi'r Rheoliadau hyn neu Reoliad yr UE.

Meddu ar ddogfen adnabod a ffugwyd

25.—(1) Mae person yn euog o drosedd os yw'n meddu ar ddogfen adnabod gan wybod ei bod wedi ei ffugio.

(2) Nid yw paragraff (1) yn gymwys os oes gan y person, ar yr adeg o dan sylw, ddogfen adnabod a ffugwyd dim ond er mwyn ei dinistrio neu i'w rhoi i awdurdod gorfodi, yr heddlu neu Weinidogion Cymru.

Dinistrio, difwyno neu newid etc yn amhriodol

26. Mae person yn euog o drosedd os yw, heblaw yn unol ag unrhyw hawlogaeth, rhwymedigaeth neu ofyniad i wneud hynny yn y Rheoliadau hyn neu Reoliad yr UE—

- (a) yn dinistrio neu'n difwyno dogfen adnabod;
- (b) yn newid unrhyw gofnod mewn dogfen adnabod; neu
- (c) yn difwyno, yn difodi neu'n dileu unrhyw farc a osodwyd o dan reoliad 33, ac eithrio o dan awdurdod ysgrifenedig arolygydd.

Troseddau ynghylch mewtblannu trawsatebydd

27. Mae person yn euog o drosedd os yw yn fwriadol—

- (a) yn mewtblannu, neu'n ceisio mewtblannu, mewn ceffyl, ddyfais—

- (i) nad yw'n drawsatebydd dilys; neu
 - (ii) sydd wedi ei fewnblannu o'r blaen mewn anifail arall, neu wedi ei defnyddio ar gyfer anifail arall; neu
- (b) yn ymyrryd â thrawsatebydd, neu'n ei newid fel arall, gan fwriadu twyllo.

Rhwystro

28. Mae person yn euog o drosedd os yw—

- (a) yn fwriadol yn rhwystro arolygydd sy'n gweithredu wrth orfodi'r Rheoliadau hyn neu Reoliad yr UE;
- (b) heb achos rhesymol, yn methu â rhoi i arolygydd sy'n gweithredu wrth orfodi'r Rheoliadau hyn neu Reoliad yr UE unrhyw gymorth neu wybodaeth y mae'n rhesymol i'r arolygydd ofyn amdanynt at y diben hwnnw; neu
- (c) yn methu â dangos dogfen, cofnod neu ddogfen adnabod pan ofynnir iddo wneud hynny i unrhyw berson sy'n gweithredu wrth orfodi'r Rheoliadau hyn neu Reoliad yr UE.

Troseddau gan gyrrff corfforaethol

29.—(1) Pan fo corff corfforaethol yn euog o drosedd o dan y Rheoliadau hyn, ac y profir bod y drosedd honno wedi ei chyflawni gyda chydsyniad neu ymoddefiad, neu i'w phriodoli i unrhyw esgeulustod ar ran—

- (a) unrhyw gyfarwyddwr, rheolwr, ysgrifennydd neu berson tebyg arall i'r corff corfforaethol; neu
- (b) unrhyw berson a oedd yn honni ei fod yn gweithredu yn rhinwedd unrhyw swydd o'r fath,

mae'r person hwnnw (yn ogystal â'r corff corfforaethol) hefyd yn euog o'r drosedd.

(2) Yn y rheoliad hwn, ystyr "cyfarwyddwr", mewn perthynas â chorff corfforaethol y rheolir ei faterion gan ei aelodau, yw aelod o'r corff corfforaethol.

Troseddau gan bartneriaethau a chymdeithasau anghorfforedig

30.—(1) Caniateir i achos ynglŷn â throedd o dan y Rheoliadau hyn yr honnir ei bod wedi ei chyflawni gan bartneriaeth neu gymdeithas anghorfforedig gael ei ddwyn yn enw'r bartneriaeth neu'r gymdeithas.

(2) At ddibenion achos o'r fath—

- (a) bydd rheolau llys mewn perthynas â chyflwyno dogfennau yn cael effaith fel pe

bai'r bartneriaeth neu'r gymdeithas yn gorff corfforaethol;

(b) bydd adran 33 o Ddeddf Cyfiawnder Troseddol 1925(1) ac Atodlen 3 i Ddeddf Llysoedd Ynadon 1980(2) yn gymwys mewn perthynas â'r bartneriaeth neu'r gymdeithas fel y maent yn gymwys mewn perthynas â chorff corfforaethol.

(3) Mae dirwy a osodir ar bartneriaeth neu gymdeithas yn dilyn euogfarn am drosedd o dan y Rheoliadau hyn i'w thalu allan o gronfeydd y bartneriaeth neu'r gymdeithas.

(4) Pan fo partneriaeth yn euog o drosedd o dan y Rheoliadau hyn, ac y profir bod y drosedd honno wedi ei chyflawni gyda chydysyniad neu ymoddefiad partner, neu i'w phriodoli i unrhyw esgeulustod ar ran partner, mae'r partner hwnnw (yn ogystal â'r bartneriaeth) hefyd yn euog o'r drosedd.

(5) At y dibenion hyn, mae "partner" yn cynnwys person sy'n honni ei fod yn gweithredu fel partner.

(6) Pan fo cymdeithas anghorfforedig yn euog o drosedd o dan y Rheoliadau hyn, ac y profir bod y drosedd honno wedi ei chyflawni gyda chydysyniad neu ymoddefiad swyddog i'r gymdeithas, neu i'w phriodoli i unrhyw esgeulustod ar ran swyddog i'r gymdeithas, mae'r swyddog hwnnw (yn ogystal â'r gymdeithas) hefyd yn euog o'r drosedd.

(7) At y dibenion hyn, ystyr "swyddog" yw swyddog i'r gymdeithas neu aelod o'i chorff llywodraethu, neu berson sy'n honni ei fod yn gweithredu yn rhinwedd swydd o'r fath.

RHAN 5

Gorfodi a chosbi

Awdurdodau gorfodi

31.—(1) Yr awdurdod lleol sy'n gorfodi'r Rheoliadau hyn a Rheoliad yr UE.

(2) Mewn perthynas ag achosion o ddisgrifiad penodol neu mewn unrhyw achos penodol, caiff Gweinidogion Cymru gyfarwyddo bod rhaid i ddyletswydd orfodi a osodir ar yr awdurdod lleol o dan y rheoliad hwn gael ei chyflawni gan Weinidogion Cymru, ac nid gan yr awdurdod lleol ac mewn achosion o'r fath, Gweinidogion Cymru fydd yr awdurdod gorfodi at ddibenion y Rheoliadau hyn.

(1) 1925 p. 86. Deddfiadau diwygio perthnasol yw Atodlen 6 i Ddeddf Llysoedd Ynadon 1952 (p. 55) ac Atodlen 8 i Ddeddf Llysoedd 1971 (p. 23).

(2) 1980 p. 43.

Penodi arolygwyr

32. Caiff Gweinidogion Cymru neu awdurdod gorfodi benodi person (“arolygydd”) er mwyn gorfodi’r Rheoliadau hyn neu Reoliad yr UE.

Arolygwyr: pwerau i fynd i mewn a phwerau cyffredinol

33.—(1) Caiff arolygydd, wedi iddo ddangos, os gofynnir iddo wneud hynny, awdurdodiad a ddilyswyd yn briodol, fynd i mewn i unrhyw dir, mangre (ac eithrio unrhyw fangre nad oes ceffyl ynddi ac a ddefnyddir fel annedd yn unig) neu eiddo er mwyn gweinyddu a gorfodi’r Rheoliadau hyn neu Reoliad yr UE, ac at ddibenion y rheoliad hwn mae “mangre” yn cynnwys unrhyw gerbyd neu gynhwysydd.

(2) Caiff arolygydd—

- (a) ei gwneud yn ofynnol i ddogfen adnabod gael ei dangos, a marcio’r ddogfen adnabod honno yn ôl yr angen;
- (b) cynnal unrhyw ymholiadau;
- (c) cael mynediad at unrhyw ddogfennau neu gofnodion (ym mha ffurf bynnag y’u cedwir) sy’n berthnasol i’r Rheoliadau hyn neu Reoliad yr UE, eu harchwilio a’u copïo, a’u cludo ymaith i’w copïo;
- (d) archwilio a gwirio gweithrediad unrhyw gyfrifiadur ac unrhyw gyfarpar neu ddeunydd cysylltiedig a ddefnyddir neu a ddefnyddiwyd mewn cysylltiad â dogfennau neu gofnodion; ac
- (e) marcio unrhyw geffyl at ddibenion adnabod.

(3) Pan fo arolygydd wedi mynd i mewn i unrhyw fangre ac nad yw’n rhesymol ymarferol penderfynu a yw dogfennau yn y fangre honno yn berthnasol i’r Rheoliadau hyn neu Reoliad yr UE, caiff yr arolygydd ymafael yn y dogfennau hynny er mwyn penderfynu a ydynt yn berthnasol ai peidio.

(4) Caiff yr arolygydd fynd gydag—

- (a) unrhyw bersonau eraill a ystyrir gan yr arolygydd yn angenrheidiol; a
- (b) unrhyw gynrychiolydd i’r Comisiwn Ewropeaidd sy’n gweithredu er mwyn gorfodi un o rwymedigaethau’r UE.

Cosbau troseddol

34. Yn ddarostyngedig i reoliad 35, mae person sy’n euog o drosedd o dan y Rheoliadau hyn yn agored, o’i euogfarnu’n ddiannod, i ddirwy.

Dewis mynd ar ôl sancsiynau sifil yn lle cosbau troseddol

35.—(1) Caiff awdurdod gorfodi osod sancsiwn sifil, neu gyfuniad o sancsiynau sifil, o dan Ran 6 yn erbyn person (“troseddwr”) os yw’r awdurdod wedi ei fodloni y tu hwnt i amheuaeth resymol fod y troseddwr yn euog o drosedd a ddisgrifir yn Rhan 4.

(2) Yn ddarostyngedig i baragraff (3), ni chaniateir dechrau neu barhau achos troseddol yn erbyn troseddwr os bydd awdurdod gorfodi, mewn cysylltiad â’r drosedd—

- (a) yn dewis cymhwyso sancsiynau sifil o dan baragraff (1); a
- (b) yn cyflwyno i’r troseddwr—
 - (i) hysbysiad cydymffurfio;
 - (ii) hysbysiad cosb am beidio â chydymffurfio; neu
 - (iii) hysbysiad cosb ariannol benodedig.

(3) Os bydd y troseddwr yn methu â chydymffurfio â’r sancsiynau sifil a gyflwynir o dan baragraff (2)(b), caiff yr awdurdod gorfodi ddwyn achos troseddol.

RHAN 6

Sancsiynau sifil

Eu cymhwyso

36. Mae’r Rhan hon yn gymwys os bydd awdurdod gorfodi yn penderfynu, o dan reoliad 35(1), gosod sancsiwn sifil, neu gyfuniad o sancsiynau sifil, ar droseddwr.

Hysbysiad cydymffurfio

37.—(1) Caiff awdurdod gorfodi, o ran cyflwyno hysbysiad ysgrifenedig (“hysbysiad cydymffurfio”) i’r troseddwr, ei gwneud yn ofynnol i’r troseddwr gymryd unrhyw gamau a bennir gan yr awdurdod, o fewn unrhyw gyfnodau a bennir, i sicrhau na fydd y weithred neu’r anweithred sy’n arwain at y drosedd yn parhau neu’n ailddigwydd.

(2) Ni chaniateir cyflwyno hysbysiad cydymffurfio os oes hysbysiad cosb ariannol benodedig wedi ei chyflwyno i’r troseddwr am yr un weithred neu anweithred.

Hysbysiad cosb am beidio â chydymffurfio

38.—(1) Os bydd troseddwr yn methu â chydymffurfio â hysbysiad cydymffurfio, caiff yr awdurdod gorfodi, o ran cyflwyno hysbysiad ysgrifenedig (“hysbysiad cosb am beidio â

chydymffurfio”) i’r troseddwr, ei gwneud yn ofynnol i’r troseddwr dalu i’r awdurdod unrhyw swm (y “gosb am beidio â chydymffurfio”) a bennir gan yr awdurdod mewn cysylltiad â’r methiant hwnnw i gydymffurfio.

(2) Caiff yr awdurdod gorfodi bennu—

- (a) swm y gosb am beidio â chydymffurfio, ond rhaid i’r swm hwnnw beidio â bod yn fwy na’r swm sy’n cyfateb i lefel 1 ar y raddfa safonol; a
- (b) a gaiff unrhyw ddisgownt ei gynnig mewn perthynas â thalu’n gynnar ac, os felly, swm unrhyw ddisgownt o’r fath (ond gweler rheoliad 41(2)).

(3) Os caiff gofynion hysbysiad cydymffurfio eu bodloni cyn i’r cyfnod talu a bennir mewn hysbysiad cosb perthnasol am beidio â thalu ddod i ben, mae’r rhwymedigaeth i dalu’r gosb am beidio â chydymffurfio wedi ei gollwng.

Hysbysiad cosb ariannol benodedig

39.—(1) Caiff awdurdod gorfodi, o ran cyflwyno hysbysiad ysgrifenedig (“hysbysiad cosb ariannol benodedig”) i’r troseddwr, ei gwneud yn ofynnol i’r troseddwr dalu i’r awdurdod unrhyw swm (y “gosb ariannol benodedig”) a bennir gan yr awdurdod mewn perthynas â’r weithred neu’r anweithred sy’n arwain at y drosedd.

(2) O ran cosb ariannol benodedig—

- (a) dim ond os nad yw’n rhesymol ymarferol i’r awdurdod gorfodi gyflwyno hysbysiad cydymffurfio y caniateir ei gosod; a
- (b) ni chaniateir ei gosod fwy nag unwaith am yr un weithred neu anweithred.

(3) Caiff yr awdurdod gorfodi bennu—

- (a) swm y gosb am beidio â chydymffurfio, ond rhaid i’r swm hwnnw beidio â bod yn fwy na’r swm sy’n cyfateb i lefel 1 ar y raddfa safonol; a
- (b) a gaiff unrhyw ddisgownt ei gynnig mewn perthynas â thalu’n gynnar ac, os felly, swm unrhyw ddisgownt o’r fath (ond gweler rheoliad 41(2)).

Hysbysiad adennill costau gorfodi

40.—(1) Caiff awdurdod gorfodi, o ran cyflwyno hysbysiad ysgrifenedig (“hysbysiad adennill costau gorfodi”) i droseddwr y cyflwynwyd hysbysiad cydymffurfio iddo, ei gwneud yn ofynnol i’r troseddwr dalu’r costau a ysgwyddwyd gan yr awdurdod mewn perthynas â’r hysbysiad cydymffurfio hyd at yr amser y cyflwynwyd yr hysbysiad cydymffurfio i’r troseddwr.

(2) Yn is-baragraff (1), ystyr y cyfeiriad at “costau” yw’r canlynol pan fyddant wedi eu hysgwyddo’n rhesymol ac yn angenrheidiol—

- (a) costau ymchwilio;
- (b) costau gweinyddu; ac
- (c) costau sicrhau cyngor arbenigol, gan gynnwys cyngor cyfreithiol.

(3) Raid i awdurdod gorfodi ddarparu dadansoddiad manwl o’r costau a bennir mewn hysbysiad adennill costau gorfodi os bydd y troseddwr yn gofyn iddo wneud hynny.

Gwybodaeth i’w darparu mewn hysbysiad neu gydag ef

41.—(1) Os yw’n cyflwyno hysbysiad, rhaid i’r awdurdod gorfodi sicrhau bod yr hysbysiad yn cynnwys yr wybodaeth a ganlyn, neu’n cael ei gyflwyno gyda’r wybodaeth a ganlyn—

- (a) enw a chyfeiriad y troseddwr y cyflwynir yr hysbysiad iddo;
- (b) y rhesymau dros gyflwyno’r hysbysiad, gan gynnwys dyddiad y weithred neu’r anweithred sy’n arwain at y drosedd;
- (c) gwybodaeth am y camau y mae’n rhaid i’r troseddwr eu cymryd mewn ymateb i’r hysbysiad, gan gynnwys swm unrhyw gosb y mae’n rhaid ei dalu ac o fewn pa gyfnod y mae’n rhaid cwblhau’r camau hynny neu dalu unrhyw daliad;
- (d) gwybodaeth am y canlynol—
 - (i) yr hawl i apelio;
 - (ii) canlyniadau apêl, gan gynnwys rhoi gwybod bod yr hysbysiad yn cael ei atal nes ceir y penderfyniad terfynol neu nes tynnir unrhyw apêl yn ôl; a
 - (iii) canlyniadau methu â chydymffurfio â’r hysbysiad.

(2) Os bydd awdurdod gorfodi yn cynnig disgownt am dalu’n gynnar o dan reoliad 38(2)(b) neu 39(3)(b), ni chaiff yr awdurdod ofyn am dalu’r swm llawn heb ddisgownt a ddisgrifir yn yr hysbysiad cyn diwedd y cyfnod o 28 niwrnod yn dechrau â’r dyddiad y cyflwynir yr hysbysiad.

(3) Yn y rheoliad hwn, ystyr “hysbysiad” yw—

- (a) hysbysiad cydymffurfio;
- (b) hysbysiad cosb am beidio â chydymffurfio;
- (c) hysbysiad cosb ariannol benodedig; neu
- (d) hysbysiad adennill costau gorfodi.

Tynnu hysbysiad yn ôl a'i ailddyroddi

42.—(1) Caiff awdurdod gorfodi fynd ati, unrhyw bryd, mewn ysgrifen, i dynnu hysbysiad a gyflwynwyd gan yr awdurdod o dan y Rhan hon yn ôl.

(2) Mae paragraff (3) yn gymwys i hysbysiad a gyflwynir i droseddwr o dan y Rhan hon ond sydd wedyn yn cael ei dynnu'n ôl gan yr awdurdod gorfodi cyn i'r troseddwr ffeilio apêl yn erbyn y penderfyniad a bennir yn yr hysbysiad.

(3) Caiff yr awdurdod gorfodi gyflwyno hysbysiad arall i'r troseddwr ynglŷn â'r methiant a ddisgrifir yn yr hysbysiad gwreiddiol.

(4) Caniateir i hysbysiad gael ei dynnu'n ôl gan awdurdod gorfodi, os bydd yr awdurdod gorfodi'n penderfynu na chyflawnwyd y drosedd y mae'r hysbysiad yn ymwneud â hi neu na ddylai'r hysbysiad fod wedi ei ddyroddi i'r person a enwyd fel y person y cafodd ei ddyroddi iddo.

(5) Pan fo hysbysiad sy'n ei gwneud yn ofynnol i swm gael ei dalu (sef swm sydd wedi ei bennu yn yr hysbysiad) wedi ei dynnu'n ôl—

- (a) nid oes swm yn daladwy yn unol â'r hysbysiad hwnnw; a
- (b) rhaid i unrhyw swm a dalwyd yn unol â'r hysbysiad hwnnw gael ei ad-dalu i'r person a'i talodd.

(6) Yn y rheoliad hwn mae i "hysbysiad" yr ystyr a roddir yn rheoliad 41(3).

Apelio

43.—(1) Caiff person apelio yn erbyn unrhyw un neu ragor o'r penderfyniadau a ganlyn gan awdurdod gorfodi—

- (a) penderfyniad, drwy gyflwyno hysbysiad o dan reoliad 37, i gyflwyno hysbysiad cydymffurfio i'r person hwnnw;
- (b) penderfyniad, drwy gyflwyno hysbysiad o dan reoliad 38, i osod cosb am beidio â chydymffurfio ar y person hwnnw;
- (c) penderfyniad, drwy gyflwyno hysbysiad o dan reoliad 39, i osod cosb ariannol benodedig ar y person hwnnw;
- (d) penderfyniad, drwy gyflwyno hysbysiad o dan reoliad 40, i'w gwneud yn ofynnol i'r person hwnnw dalu costau gorfodi.

(2) Dyma'r seiliau dros apelio—

- (a) bod y penderfyniad wedi ei seilio ar wall ffeithiol;
- (b) bod y penderfyniad yn anghywir o ran y gyfraith neu am unrhyw reswm arall;

- (c) bod y penderfyniad yn afresymol am unrhyw reswm.

(3) Apêl i'r Tribiwnlys Haen Gyntaf yw apêl o dan y Rhan hon.

(4) Mae apêl o dan y rheoliad hwn yn atal effaith yr hysbysiad yr apelir yn ei erbyn hyd nes i'r apêl gael ei phenderfynu neu ei thynnu'n ôl.

(5) Pan geir apêl caiff y Tribiwnlys Haen Gyntaf ganslo'r hysbysiad yr apelir yn ei erbyn, ei gadarnhau neu ei amrywio.

Y cyfnod y mae angen talu o'i fewn a'r pŵer i adennill taliadau

44.—(1) I'r graddau y bydd penderfyniad i osod cosb am beidio â chydymffurfio, cosb ariannol benodedig, neu benderfyniad i adennill costau gorfodi yn cael ei gynnal ar apêl, neu os tynnir yr apêl yn ôl, rhaid i'r gosb neu'r costau gael eu talu cyn diwedd y cyfnod o 28 niwrnod (“y cyfnod y mae angen talu o'i fewn”) gan ddechrau â'r diwrnod y caiff yr apêl ei phenderfynu neu ei thynnu'n ôl.

(2) Yn dilyn y cyfnod y mae angen talu o'i fewn, caiff awdurdod gorfodi adennill unrhyw gosb am beidio â chydymffurfio neu gosb ariannol benodedig a osodwyd o dan y Rhan hon, ac unrhyw gostau gorfodi a all gael eu hadennill gan yr awdurdod o dan y Rhan hon—

- (a) fel dyled sifil; neu
- (b) ar orchymyn y llys, fel pe baent yn daladwy o dan orchymyn llys.

Derbyniadau

45.—(1) Yn ddarostyngedig i baragraff (2) a (3), caiff awdurdod gorfodi gadw symiau (“derbyniadau”) a delir mewn cysylltiad â hysbysiadau gorfodi a gyflwynir o dan y Rhan hon.

(2) Rhaid i'r swm y caniateir i awdurdod gorfodi ei gadw o dan baragraff (1) beidio â bod yn uwch na chostau rhesymol ac angenrheidiol (“costau”) a ysgwyddir, mewn perthynas â hysbysiadau gorfodi, gan yr awdurdod wrth gyflawni ei swyddogaethau o dan Rannau 4 a 5 a'r Rhan hon.

(3) Os bydd y derbyniadau'n uwch na'r costau, rhaid i'r awdurdod gorfodi dalu'r gormodedd i'r Gronfa Gyfunol.

(4) At ddibenion paragraff (2), mewn perthynas â hysbysiadau gorfodi, caiff costau gynnwys—

- (a) costau ymchwilio;
- (b) costau gweinyddu; ac
- (c) costau sicrhau cyngor arbenigol, gan gynnwys cyngor cyfreithiol.

(5) Pan wneir cais gan Weinidogion Cymru, rhaid i awdurdod gorfodi ddarparu gwybodaeth i Weinidogion Cymru am dderbyniadau a chostau.

(6) Yn y rheoliad hwn, ystyr “hysbysiadau gorfodi” yw hysbysiadau cosb am beidio â chydymffurfio â hysbysiadau cosb ariannol benodedig.

RHAN 7

Amrywiol

Dirymu Rheoliadau Adnabod Ceffylau (Cymru) 2009

46. Mae Rheoliadau Adnabod Ceffylau (Cymru) 2009(1) wedi eu dirymu.

Lesley Griffiths

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
un o Weinidogion Cymru
15 Ionawr 2019

(1) O.S. 2009/2470 (Cy. 199).

Explanatory Memorandum to The Equine Identification (Wales) Regulations 2019

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

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Equine Identification (Wales) Regulations 2019 and I am satisfied that the benefits justify the likely costs.

Lesley Griffiths

Minister for Environment, Energy and Rural Affairs:

17 January 2019

1. Description

The aim of these Regulations is to improve the system of identification of equidae through the implementation of Commission Regulation (EU) 2015/262.

These Regulations ensure that the system of equine identification set out by Regulation 2015/262 functions effectively in Wales. This system includes requirements in relation to the identification of equines and the identification document in relation to an equine, the marking of equines by way of a transponder, and a central database. These Regulations make provisions in relation to these. They also set out a system of civil sanctions and criminal penalties for offences of breaching Regulation 2015/262 or offences contrary to these Regulations.

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

None

3. Legislative background

These Regulations implement Commission Implementing Regulation (EU) 2015/262 of 17 February 2015, regarding the identification of equidae and known as Equine Passport Regulation.

The Welsh Ministers are designated (by way of the European Communities (Designation) (No. 5) Order 2010, S.I. 2010/2690) for the purposes of section 2(2) of the European Communities Act 1972 in relation to the common agricultural policy of the European Union. The Equine Identification (Wales) Regulations 2019 are made in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the 1972 Act.

These Regulations revoke the Equine Identification (Wales) Regulations 2009 which implemented Commission Regulation (EC) No 504/2008 of 6 June 2008. (EU) 2015/262 replaces (EC) 504/2008.

These Regulations are being made under the negative resolution procedure.

4. Purpose & intended effect of the legislation

The European Commission issued a 5 point action plan in 2013 in response to the revelations surrounding horse meat contamination within the human food chain. The plan included actions to strengthen the requirements on equine identification in order to reduce the risk of horses which have been treated with certain medicinal products from entering the human food chain. Regulation 2015/262 came into force on 1 January 2016. The Equine Identification (Wales) Regulations 2019 implement Regulation 2015/262 in Wales. These Regulations support the requirement that all equines moving in, to or through the EU must be identified in accordance with Regulation 2015/262 and that the human food chain is protected against animals treated with potentially harmful veterinary medicines.

These Regulations require the unique identification of all equines by way of passport. The Regulations require all equines to be microchipped regardless of age. Previously only equines born after 2009 required a microchip. The new requirement in these Regulations for older equines to possess a microchip comes into force two years from the coming into force of these Regulations.

The main provisions contained within Regulation 2015/262 are fundamentally the same as those contained within the previous Regulation (Commission Regulation (EC) 504/2008), which was

implemented by way of the Equine Identification (Wales) Regulations 2009. The main changes include:

- A requirement for all Member States to operate a central database containing certain information on horses within their territory;
- Tighter controls over microchip numbering;
- A requirement to notify a Passport Issuing Organisation when a horse has been signed out of the food chain on receipt of certain medicinal treatments and the recording of these details on the central equine database;
- New minimum standards for passports together with stronger powers to suspend or withdraw approval to issue passports from organisations which fail to meet the standards.

The Regulations continue to use a derogation for certain equines living under wild or semi-wild conditions (those identified in the lists kept by the Hill Pony Improvement Societies of Wales and the Cymdeithas Merlod y Carneddau) and set out the circumstances in which they remain exempt from the requirement for a passport or transponder.

The Regulations expressly state that an identification document, or any part of it, may be in an additional language. Accompanying guidance will set out the way in which the Welsh Government will support passport issuing organisations in this regard.

Offences and penalties are set out in the Regulations. The Regulations confer on Local Authorities the ability to deal with breaches by way of civil sanctions and to recover the costs of doing so. A person served a notice under these Regulations has the right to appeal. An appeal is to be made to the First-tier Tribunal.

The combination of the more robust identification requirements, the establishment of the UK's Central Equine Database and the availability of civil sanctions for breaches of these Regulations will improve traceability during disease outbreaks as well as support appropriate resolution and enforcement in cases of loss, theft or lapses of welfare.

5. Consultation

A 12 week consultation ran from 7 March 2018 to 30 May 2018. The consultation was drawn to the attention of a wide audience of key stakeholders including Farming Unions, Welfare charities, Passport Issuing Authorities and Local Authorities. The consulters' were e-mailed the weblink to the online consultation and it was advertised in GWLAD, the Welsh Government magazine. There was no express legal requirement to consult. Section 71 of the Government of Wales Act 2006 allows the Welsh Ministers to do anything conducive or incidental to any of their other functions.

There was broad agreement to the proposals in the consultation.

A summary of the consultation responses is available at www.gov.wales

6. Regulatory Impact Assessment (RIA)

PART 2 – REGULATORY IMPACT ASSESSMENT

Options

Option 1 – Do Nothing

Under this option we would not implement the EU regulation. This would create a significant risk to food safety and the horse meat trade. Additionally it would likely lead to legal proceedings and potentially fines (infraction) from the EU. This option has therefore been ruled out, but will be used as a baseline for analysis of other available options.

Option 2 - Do the minimum set out in the EU Regulations

Under this option, the Regulations necessary to enforce Commission Regulation 2015/262 would be made but the opportunity to introduce further improvements to the equine identification regime in Wales would be missed. For this reason, this option has been rejected.

Option 3 – Implement the EU Regulations with some enhancement

This option considers a small number of enhancements to the EU legislation. The enhancements, which are set out in Table 1, are considered necessary to ensure the regime is safe, effective and practical and adequately protects public health. These options are gold plating but the Welsh Government considers they are justified, and they are also broadly supported by the sector itself, evidenced through Welsh government’s engagement across the equine sector through our joint engagement with Defra of attending meetings, sending out policy updates and inviting views. From written and verbal feedback, we know the Equine Sector Council and enforcement bodies support these measures. All gold plating that incurs an overall cost to business has been consulted on.

Table 1: Enhancements being considered under option 3

Proposed additional measure	Further details	Article (EU Regulation 2015/262)	Justification
Microchipping			
Mandatory microchipping of older horses	Gold plating – additional requirement permitted by EU legislation which may incur some additional cost	Article 18 (5) (c)	Horses identified before 2009 did not previously need to be micro-chipped. As a result it is often hard to identify older horses causing difficulty with enforcement of identification, welfare and food safety legislation. Mandatory micro-chipping of older horses could help to overcome this. Many parts of the equine sector support mandatory microchipping of older horses as a means to ensure robust equine identification. However, views are polarised and there is a minority who oppose this change. Horse owners who have equines born before 2009 who are not already microchipped will incur additional costs.
Mandatory replacement of	Gold plating –	Article 18 (5)	Microchip failure is thought to be

failed microchips	additional requirement permitted by EU legislation which may incur some additional cost	(a)	<p>extremely rare. However, if a horse's microchip were to fail this would create difficulties in ascertaining its identity. Outline diagrams are not always mandatory for horses that were originally microchipped, so the replacement of failed microchips is essential to link these horses to their passports.</p> <p>In the case of microchip failure horse owners will incur additional costs.</p>
Central Equine Database (CED)			
PIOs to update CED with changes to horse details within 24 hours	Gold plating – goes beyond the minimum EU requirement	Article 38 (3)	<p>New EU legislation requires Passport Issuing Organisations (PIOs) to notify CED of changes to a horse's details within 15 days. However the intention of the new EU Regulations is to tighten the identification of all equines. It is therefore essential that the CED contains up to date information on a horse's status so that the regime can be managed and enforced effectively. The majority of the sector agrees that a tighter updating timeframe for PIOs is required.</p> <p>PIOs may incur additional costs.</p>
Basic horse details available to the public	Non-regulatory – additional to EU requirement	N/A	<p>EU legislation requires certain horse details held on CED to be made available to other Member States. The same system, allowing searches of the CED for limited non-personal information, could be made available to the general public at negligible additional cost to the Devolved Administrations. Public access to data would enable owners to ensure that their records are correct, and would also be of uses to businesses to inform commercial decisions.</p> <p>Small cost to Government only</p>
Option for owners to notify PIOs of changes to equine identification details via	Non-regulatory – use is	Articles 27 (3) and 37 (4)	Owners are responsible for reporting changes to their horse's details, including ownership

CED before forwarding their passport to the relevant PIO.	optional		information, to PIOs. Anecdotally equine stakeholders state that levels of reporting are currently low, which creates difficulties for enforcement authorities and PIOs as the data they hold is out of date. Stakeholders, including the British Horse Council (Formerly Equine Sector Council) believe that giving owners access to an optional online mechanism to notify PIOs of necessary changes to their records is vital to increasing reporting and therefore improving the efficacy of the regime. Defra have confirmed that this extra functionality would be simple to develop and would provide significant benefits as well as being provided at a low cost to Government.
Option for CED to notify changes in equine identification details to other Member States on behalf of PIOs	Non-regulatory – use is optional	Articles 38 and 40	EU legislation requires

7. Costs and benefits

To a large extent, the requirements set out in Commission Regulation 2015/262 reflect the UK's existing regime and are not expected to result in an additional cost to public bodies or horse owners. This section therefore focuses on the costs and benefits of the enhancements proposed under option 3.

Microchipping of older horses

Cost

Horses identified before 2009 do not currently need to be microchipped. As a result it is often hard to identify these horses in the field, causing difficulty with enforcement of identification, welfare and food safety legislation. Mandatory microchipping of older horses would overcome this. The majority of the costs associated with the measure would fall on private individuals rather than businesses, as most horses are owned by private individuals. This being the case it is likely that changes introduced in the Regulations would need to be phased in over an extended period to give owners the chance to comply with the requirement.

Data on the Central Equine Database (CED) shows almost 149,000 horses in Wales, of which approximately 86,000 (58%) were born before the 1st of July 2009. Some of these older horses are likely to have already been microchipped by their owner, however, the number this applies to is unknown. For the purposes of the RIA it is assumed that between 50% and 100% of older horses will need to be micro-chipped.

The consultation stage impact assessment published by Defra in 2016¹ indicated that 86% of horses in the UK are owned by private individuals, with the remaining 14% owned by businesses. In the absence of alternative or more up-to-date information for Wales, it is assumed that this split is representative of horse ownership in Wales.

The cost of microchipping a horse falls to the owner of the animal. The unit costs in Table 2 are taken from Defra's consultation stage IA but updated to reflect inflation during the intervening period. On this basis, the cost to a private owner to microchip a horse is £45.18 and the cost to a business owner is £46.32.

Table 2 Unit cost of microchipping a horse*

Microchip insertion	£27.84	Typical veterinary charge for insertion of a microchip during a routine visit (Equine Industry Report)
Cost of passport update	£14.32	Typical charge levied by PIO for updating passport (Horse Passports Agency)
Postage	1.01	
Value of private owner time (15 minutes)	$8.08 \times 0.25 = 2.02$	Value of travel/leisure time (DfT). This assumes it takes someone about a quarter of an hour to undertake the paperwork associated with recording the microchip number with the PIO.
Value of business owner time (15 minutes)	$9.70 \times 1.3 \times 0.25 = 3.15$	Median gross hourly pay related to raising horses and equines (ASHE 2018) increased by 30% to cover employer NI contribution and other employment costs.

* Figures are based on Defra's consultation stage IA published in 2016. The costs of microchip insertion, passport update, postage and private owner time have been updated using the GDP deflator series. The value of business owner time is based on hourly earnings data for 'agricultural and related trades' in the Annual Survey of Earnings and Hours (ASHE) 2018.

The total cost to microchip all horses in Wales born before July 2009 is therefore estimated to be between £1.96 million and £3.91 million, of which between £0.28million and £0.56million is expected to fall to business owners. Owners of horses born before July 2009 will have two-years from when the Regulations come into force to get their horse microchipped, this is to provide them with an opportunity to have their animal microchipped during a routine veterinary visit. The costs are therefore expected to be spread over the period to February 2021.

Table 3 Cost of microchipping horses in Wales born before July 2009

¹https://consult.defra.gov.uk/equine-id/revised-eu-rules-on-equine-id-eu-reg-eu-2015-262/supporting_documents/Appendix%20A%20Equine%20Identification%20England%20Regulations%20Impact%20Assessment%20IA%20No.%20Defra%201785.pdf

	Percentage of horses born before July 2009 which require microchipping	
	50%	100%
Total cost for all private owners	1,677,300	3,354,700
Total cost for all business owners	279,900	559,800
Total cost	1,957,200	3,914,500

To put the costs of microchipping a horse into context, figures from Equine World UK² suggest that the cost of owning a horse may range between £3,000 and £10,000 per annum depending upon the type of livery used. The, in most cases, one-off cost to microchip a horse of £45.18 - £46.32 therefore represents between 0.5% and 1.5% of the **annual** cost of owning a horse.

Benefit

Animal welfare organisations and local authorities deal with hundreds of cases of abandoned horses across the UK each year. In a number of cases, those organisations struggle to identify the horse and consequently the owner. Requiring all horses be microchipped will provide authorities with a quicker and more reliable means of identifying older horses. This will help to ensure the horses can be given the appropriate care, it increases the chances of recovering the costs incurred by welfare organisations in caring for the animals from the owner and it enables the authorities to take further action in cases of abuse or neglect. This is expected to result in a reduction in the number of horses being abandoned and an improvement in animal welfare.

Microchipping will also make it quicker and easier for authorities to reunite lost or stolen horses with their owners and may help to deter theft.

The UK has a relatively small export market for horse meat and providing a more efficient and reliable way of identifying horses reduces the risk of a horse which has been signed out of the food chain ending up in an abattoir, thus improving food safety.

It has not been possible to monetise these benefits as the relevant data is not available and it would be disproportionately costly to collect it.

Replacement of failed microchips

Cost

The number of microchips failing each year is unknown but it is thought to be extremely rare. However, if a horse's microchip were to fail this would create difficulties in ascertaining its identity. Outline diagrams, (a silhouette drawing of the horse on the passport where the markings have been annotated by the owner/keeper and verified by a qualified veterinary surgeon) are not always mandatory for horses that were originally microchipped, so the replacement of failed

² <http://www.equineworld.co.uk/buying-loaning-selling-horses/buying-a-horse/cost-of-owning-a-horse>

microchips is essential to link these horses to their passports and therefore their food safety records.

As identified above, the cost to a private owner to microchip a horse is estimated to be £45.18 and the cost to a business owner is estimated to be £46.32.

Benefit

The benefits of replacing failed microchips are similar to those of microchipping older horses. The move will ensure horses can be quickly and easily identified in the field and abattoir, improving animal welfare and food safety.

Time allowed for PIOs to update central equine database

The EU legislation requires PIOs to notify the central database of changes to a horse's details within 15 days of the change and within 24 hours of a passport being issued or updated. It is essential that the central database contains information that is as accurate and up to date as possible for the status of all horses identified or kept on holdings in the UK so that the equine identification regime can be managed and enforced effectively by PIOs and enforcement authorities. We propose that PIOs notify the central database within 24 hours (excluding non-working days) for the following reasons.

Food Standards Agency staff at abattoirs use the database to verify that the identification and food chain information on horse passports matches the central database and that horses presented for slaughter are safe for human consumption. If it does not match the horse must be excluded from the food chain. (Notably, before issuing a passport PIOs are required to check that a passport has not already been issued for that horse. If it has, the PIO is allowed to issue another passport but must record on the passport and database that the animal must not enter the food chain.) Also, when Local Authority officers find a horse that has been abandoned, lost or straying they will scan its microchip and use it to find the address of the owner on the database.

These controls rely on information being as up to date as possible. Most parts of the sector – including the Equine Sector Council Steering Committee, the National Panel for Animal Health and Welfare Officers and the FSA – have argued for real time information exchange between PIOs and the central database. This is not possible but as a balance we have proposed that PIOs notify changes to the central database within the permissible 24 hours after they have updated their own database. This should be achievable at negligible additional cost to PIOs (see table below). Some rare breed PIOs dealing with low horse volumes are not staffed full time by specific agreement with Defra but it should not be onerous for them to transfer changes electronically to the database within 24 hours of updating their database.

Cost

There are six Passport Issuing Offices (PIOs) based in Wales. Currently, a PIO will submit a batch of records to the CED at least every 15 days, this means a minimum of 24 updates to the CED each year. Under the new proposals, a PIO will be required to notify the CED within 24 hours of a horse passport being issued or updated. This equates to a maximum of one update each working day or 252 updates each year per PIO in Wales. Given that there are six PIOs based in Wales, this means there will be a maximum of an additional 1,368 updates from Wales each year.

The systems used by a number of the PIOs in Wales includes an automated link to the CED, so the CED is notified of any new or updated records automatically at no additional cost. Even where the update is sent manually, the amount of time taken by the PIO is expected to be minimal.

Engagement with the sector suggests the amount of time needed to send one update is around 3 minutes. Using a figure of £12.61 to reflect the value of one hour of a PIO owner's time, the maximum cost based on sending an additional 1,368 updates each year would be approximately £860. The cost of the policy change is therefore estimated to be between £0 and £860 per annum in Wales.

Benefit

This will keep the CED up to date, as close to real time as possible, and will help improve enforcement of identification, horse welfare and food safety. Other users of the Database will also have access to up to date information.

Public availability of horse details

Cost

EU legislation requires certain horse details held on CED to be made available to other Member States. The same system could be used by the public to allow them to also search the database for limited non-personal information. The necessary system changes have already been made to the CED and as such there are no additional costs in Wales.

Benefit

Public access to data would enable owners to ensure that their records are correct, and would also be of use to businesses such as abattoirs to inform commercial decisions.

Pre-notification of changes to equine identification details

Owners are responsible for reporting changes of their horse's details, including ownership information, to PIOs. Anecdotally equine stakeholders state that levels of reporting are currently low, which creates difficulties for enforcement authorities and PIOs as the data they hold is out of date. Stakeholders, including the Equine Sector Council, believe that giving owners access to an optional online mechanism (through the CED) to notify PIOs of necessary changes to their records is vital to increasing reporting and therefore improving the efficacy of the regime.

Cost

Defra has confirmed with the Government Digital Service that this extra functionality would be simple to develop and does not require additional complexity such as GOV.UK Verify. Defra therefore consider the cost of adding the necessary functionality to be low.

There is also a small cost for those who update the online facility associated with the time it takes them but this will be entirely voluntary and is an example of how we are seeking to use non-regulatory measure.

Benefit

Providing horse owners with a simple online facility to enable them to inform the PIOs of any changes to their horse's details is expected to increase the current, low reporting rates. Ensuring horse details are kept up-to-date provides a number of benefits to enforcement authorities and the PIOs.

Database to notify changes in equine identification on behalf of PIOs

EU legislation requires CED to notify other Member State's databases of changes to horse's details in certain situations. PIOs will be required to notify other Member State's databases of

changes to horse's details in other situations. It is proposed that the CED is adapted to enable it to provide these notifications to the other Member States on behalf of the PIOs.

Cost

The CED will need to be adapted to enable it to make notifications to other Member State's databases and these changes would also enable the CED to make the other, similar notifications on behalf of PIOs. The cost of making the necessary changes to the CED is expected to be very low. The Welsh Government is expected to pay 9% of the total UK cost.

Benefit

Adapting the CED to make notifications on behalf of the PIOs will reduce the administrative burden placed on PIOs, generating cost-savings for the latter. The move is also expected to improve the reliability of data-sharing between Member States.

Familiarisation Costs

There are costs (to businesses and to private horse owners) associated with the need to become familiar with the requirements of the new regulation and the way the database works. These are estimated to amount to about £97,400.

The six PIOs in Wales are each expected to need around two hours to familiarise themselves with the requirements of the Regulations. Assuming a value of time of £12.61 per hour (as described in the microchipping section), this gives a total cost of approximately £150.

All horse-owners will need to read the guidance that will accompany the Regulations and familiarise themselves with the new requirements. The CED indicates there are approximately 149,000 horses in Wales, with 86% of these thought to be privately owned and the remaining 14% believed to be owned by businesses. Assuming each private owner has an average of two horses and each business owner has an average of four horses, this equates to approximately 64,100 private owners and 5,200 business owners.

It is assumed that each owner will require ten minutes to familiarise themselves with the guidance which, based on the values of time identified above of £8.08 and £12.61 for private and business owners respectively, equates to a cost of approximately £97,200.

Enforcement

As with the current regime, local authorities will act as the enforcement authority for these Regulations. Local authorities will be able to use civil sanctions such as compliance notices and fixed monetary penalties to address non-compliance. Serious cases of non-compliance can still be prosecuted through the courts.

Specific impact tests

Welsh Language

A Welsh Language Impact Assessment has been undertaken and no direct impacts have been identified. The PIOs have always had the option to supply a passport in Welsh should their customers request, therefore they have the necessary translations in place.

Equality, Children and Human Rights

There are no issues relating to children’s rights or any impacts specifically for children and young people. Neither are there any issues of concern relating to the UN Human Rights Convention or equality.

9. 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?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

10. Post implementation review

A review will be undertaken after 3 years to assess the effectiveness of the legislation in delivering the objective.

Ymateb y Llywodraeth i adroddiad drafft y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol ar Reoliadau Ardaloedd Rheoli Mwg (Tanwyddau Awdurdodedig) (Cymru) 2019

Mae'r ymateb hwn yn cyfeirio at y pwynt Technegol a wnaed yn adroddiad drafft y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol ar Reoliadau Ardaloedd Rheoli Mwg (Tanwyddau Awdurdodedig) (Cymru) 2019, ynghlŷn ag anghysondeb rhwng y testun Cymraeg a'r testun Saesneg ym mharagraff 71(c) o'r Atodlen.

Gwelwyd bod testun Saesneg y rheoliadau yn nodi'r maint cywir, sef "*between approximately 30 millimetres and 130 millimetres in length*". Felly, dylai'r testun Cymraeg cyfatebol ddarllen fel a ganlyn:

"rhwng 30 o filimetrau a 130 o filimetrau o hyd".

Gan nad yw'n eglur ar wyneb yr offeryn pa destun sy'n gywir, rydym yn bwriadu cywiro'r camgymeriad drwy gyfrwng OS diwygio cyn gynted â phosibl. Bydd hyn yn sicrhau bod yr effaith ar ddefnyddwyr y cynhyrchion hyn, a achosir gan y camgymeriad hwn, yn cael ei lleihau i'r eithaf. Bydd hyn yn golygu drafftio OS byr, y gellir ei wneud o dan y weithdrefn penderfyniad negyddol, ac fe all yr OS diwygio hwnnw ddod i rym yn y dyfodol agos. At hynny, byddwn yn llunio OS sy'n diweddarau'r rhestr o Danwyddau Awdurdodedig, a bydd hwnnw'n dod i rym cyn diwedd y flwyddyn hon. Caiff y Rheoliadau hyn, yn ogystal â'r offeryn diwygio, eu dirymu bryd hynny (gan ddilyn patrwm y Rheoliadau hyn).

SL(5)301 – Rheoliadau Ardaloedd Rheoli Mwg (Tanwyddau Awdurdodedig) (Cymru) 2019

Cefndir a Phwrpas

Mae'r Rheoliadau hyn yn dirymu ac yn disodli gyda diwygiadau Reoliadau Ardaloedd Rheoli Mwg (Tanwyddau Awdurdodedig) (Cymru) 2017 (O.S. 2017/421 (Cy. 89)).

Mae adran 20 o Ddeddf Aer Glân 1993 ("Deddf 1993") yn darparu ei bod yn drosedd gollwng mwg o simnai adeilad neu simnai sy'n gwasanaethu ffwrnais boeler sefydlog neu beiriannau diwydiannol, os yw'r simnai honno mewn ardal rheoli mwg. Er hynny, yn rhinwedd adran 20(3) mae'n amddiffyniad os gellir profi mai drwy ddefnyddio tanwydd awdurdodedig yn unig yr achoswyd y gollyngiad honedig.

Yn rhinwedd adran 20(6), ystyr "tanwydd awdurdodedig" yw tanwydd y datganwyd drwy reoliadau ei fod wedi ei awdurdodi. Mae'r pŵer i wneud rheoliadau o'r fath yn arferadwy o ran Cymru gan Weinidogion Cymru.

Mae'r Rheoliadau hyn yn pennu pob tanwydd sydd wedi ei awdurdodi ar hyn o bryd i'w ddefnyddio mewn ardaloedd rheoli mwg yng Nghymru at ddibenion adran 20 o Ddeddf 1993.

Gweithdrefn

Negyddol

Craffu Technegol

Nodwyd y pwynt canlynol i gyflwyno adroddiad arno o dan Reol Sefydlog 21.2(vii) (gwahaniaethau rhwng y Gymraeg a'r Saesneg) mewn perthynas â'r offeryn hwn.

Ym mharagraff 71(c) o'r Atodlen, mae'r testun Cymraeg yn pennu maint o "rhwng 30 o filimetrau a 150 o filimetrau o hyd". Mae'r testun Saesneg cyfatebol yn pennu ystod o 30-130 o filimetrau.

Craffu ar rinweddau

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

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

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

Ymateb y Llywodraeth

Mae angen ymateb gan y Llywodraeth.

Ystyriaeth y Pwyllgor

Ystyriodd y Pwyllgor yr offeryn yn ei gyfarfod ar 28 Ionawr 2019, a bydd yn cyflwyno adroddiad i'r Cynulliad yn unol â'r pwynt technegol a nodir uchod.



Negyddol Arfaethedig Offerynnau Statudol sydd ag Adroddiadau Clir 4 Chwefror 2019

Pn(5)015 – Rheoliadau Adnabod Ceffylau (Cymru) (Diwygio) (Ymadael â'r UE) 2019

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn yn gwneud diwygiadau i Reoliadau Adnabod Ceffylau (Cymru) 2019 sy'n cydategu Rheoliad Gweithredu'r Comisiwn (EU) 2015/262 sy'n nodi rheolau yn unol â Chyfarwyddebau'r Cyngor 90/427/EEC a 2009/156/EC o ran dulliau adnabod equidae yng Nghymru ac yn gwneud darpariaeth ynglŷn â gorfodi'r Rheoliad hwnnw.

Cafodd y rheoliadau hyn eu gosod at ddibenion sifftio o dan Ddeddf yr UE (Ymadael) 2018 yn unol â Rheol Sefydlog 27.9A

Rhiant–Ddeddf: Deddf yr Undeb Ewropeaidd (Ymadael) 2018

Bodlonwyd Gofynion y Sifft: Ni Nodwyd

Pn(5)016 – Rheoliadau Mesur Teithio gan Ddysgwyr (Cymru) (Diwygio) (Ymadael â'r UE) 2019

Gweithdrefn: Negyddol

Mae'r Rheoliadau hyn yn mewnosod “unrhyw ofyniad yn neddfwriaeth uniongyrchol yr UE a ddargedwir” yn adran 14A(5) o Fesur Teithio gan Ddysgwyr (Cymru) 2008, yn lle “unrhyw ofyniad yng nghyfraith yr Undeb Ewropeaidd sy'n uniongyrchol gymwysadwy”.

Rhiant–Ddeddf: Deddf yr Undeb Ewropeaidd (Ymadael) 2018

Bodlonwyd Gofynion y Sifft: Ni Nodwyd





Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA - L/LG/0870/18

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

SeneddCLA@cynulliad.cymru

18 Ionawr 2019

Annwyl Mick

Diben y llythyr hwn yw rhoi gwybod ichi fy mod wedi gosod Memorandwm Cydsyniad Offeryn Statudol gerbron Cynulliad Cenedlaethol Cymru mewn perthynas â Rheoliadau Gwrteithiau a Deunydd Amoniwm Nitrad (Diwygio) (Ymadael â'r UE) 2019, fel sy'n ofynnol o dan Reol Sefydlog 30A.

Nid wyf yn bwriadu cyflwyno cynnig i drafod yr OS hwn yn yr achos hwn. Rwyf wedi gwneud y penderfyniad hwnnw ar sail y ffaith mai'r unig beth y mae'r OS hwn yn ei wneud yw gwneud diwygiadau sy'n ymwneud â gweithredadwyedd a fydd yn codi oherwydd bod y DU yn ymadael â'r UE.

Mae'r ddarpariaeth yn yr OS yn ymdrin â diwygiadau sy'n ymwneud â gweithredadwyedd mewn perthynas â Deddf Amaethyddiaeth 1970 ac nid oes gwahaniaeth o ran polisi rhwng Llywodraeth Cymru a Llywodraeth y DU yn yr achos hwn.

O ystyried faint o ddeddfwriaeth y mae'r Cynulliad yn ei hystyried, nid wyf yn credu y byddai dadl am yr OS hwn yn ddefnydd cynhyrchiol o amser gwerthfawr y Cyfarfod Llawn ac ni fyddaf yn ceisio cynnal dadl o'r fath. Fodd bynnag, mae Rheol Sefydlog 30A yn cynnwys darpariaeth sy'n pennu y caiff unrhyw aelod gyflwyno cynnig am ddadl ar yr OS hwn. Os bydd dadl o'r fath yn cael ei chynnal, byddwn yn barod iawn i gymryd rhan ynddi.

Cofion

Lesley Griffiths AC / AM
Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs

MEMORANDWM CYDSYNIAD OFFERYN STATUDOL

Rheoliadau Gwrteithiau a Deunydd Amoniwm Nitrad (Diwygio) (Ymadael â'r UE) 2019

1. Gosodir y Memorandwm Cydsyniad Deddfwriaethol hwn o dan Reol Sefydlog ("RhS") 30A.2. Mae RhS 30A yn rhagnodi bod yn rhaid i Femorandwm Cydsyniad Offeryn Statudol gael ei osod ac i Gynnig Cydsyniad Offeryn Statudol gael ei gyflwyno gerbron Cynulliad Cenedlaethol Cymru ("y Cynulliad") os yw un o offerynnau statudol (OS) y DU yn gwneud darpariaeth o ran Cymru sy'n diwygio deddfwriaeth sylfaenol sydd o fewn cymhwysedd deddfwriaethol y Cynulliad.
2. Cafodd Cynulliad Cenedlaethol Cymru wybod yn y lle cyntaf fod Rheoliadau Gwrteithiau a Deunydd Amoniwm Nitrad (Diwygio) (Ymadael â'r UE) 2018 wedi cael eu cyhoeddi ar 2 Tachwedd 2018, o dan y weithdrefn negyddol. Mae copi o'r datganiad ysgrifenedig i'w weld yma:

<http://www.assembly.wales/laid%20documents/ws-ld11808/ws-ld11808-w.pdf>

3. Cafodd Rheoliadau Gwrteithiau a Deunydd Amoniwm Nitrad (Diwygio) (Ymadael â'r UE) 2019 ("Rheoliadau 2019") eu gosod gerbron Dau Dŷ'r Senedd ar 16 Ionawr 2019. Mae'r rheoliadau i'w gweld yma:

<https://beta.parliament.uk/work-packages/ID8bF9CU>

Crynodeb o'r Offeryn Statudol a'i amcan

4. Amcan yr OS yw mynd i'r afael â methiannau cyfraith yr UE a ddargedwir i weithredu'n effeithiol, ynghyd â diffygion eraill sy'n deillio o'r ffaith bod y DU yn ymadael â'r Undeb Ewropeaidd o dan bwerau yn Neddf yr Undeb Ewropeaidd (Ymadael) 2019.
5. Wrth fynd i'r afael â'r methiannau a gwendidau eraill, mae'r OS yn diwygio'r ddeddfwriaeth sylfaenol a ganlyn:
 - Deddf Amaethyddiaeth 1970

Darpariaeth berthnasol sydd i'w gwneud gan yr OS

6. Mae'r diwygiad a wneir gan Reoliadau 2019 yn gwneud newid technegol i adran 74A(4) o Ddeddf Amaethyddiaeth 1970, er mwyn sicrhau bod y ddarpariaeth yn gywir ac yn effeithiol ar ôl i'r DU Ymadael â'r UE.
7. Mae'r newid a nodir ym mharagraff 5 yn ymwneud â phwnc sydd o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru, ac a allai fod yn destun Bil gan y Cynulliad Cenedlaethol.

8. Mae Adran 108A o Ddeddf Llywodraeth Cymru 2006 yn galluogi'r Cynulliad i ddeddfu ar unrhyw bynciau ac eithrio'r rheini sydd wedi'u cadw'n ôl yn benodol ar gyfer Senedd y DU yn Atodlen 7A i'r Ddeddf. Mae gan y Cynulliad gymhwysedd deddfwriaethol mewn perthynas ag amaethyddiaeth (sy'n cynnwys gwrteithiau a bwyd anifeiliaid).

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

9. Nid oes gwahaniaeth rhwng Llywodraeth Cymru a Llywodraeth y DU o ran y polisi sy'n gysylltiedig â'r cywiriad. O ganlyniad, byddai gwneud OSau ar wahân yng Nghymru ac yn Lloegr i gywiro'r cyfeiriadau dan sylw yn arwain at ddyblygu gwaith ac at gymhlethdod diangen i'r llyfr statud. Mae cydsynio i'r OS hwn yn sicrhau bod un fframwaith deddfwriaethol ar draws Cymru a Lloegr, sy'n hyrwyddo eglurder a hygyrchedd yn ystod y cyfnod hwn o newid. O dan yr amgylchiadau eithriadol hyn, mae Llywodraeth Cymru yn ystyried ei bod yn briodol i Lywodraeth y DU ddeddfu ar ein rhan yn yr achos hwn.

Lesley Griffiths AC

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs

18 Ionawr 2019

In accordance with paragraph 2(2) of Schedule 2 to the 1972 Act and paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament.

PART 1

Introductory

Citation and commencement

1.—(1) These Regulations may be cited as the Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2019.

(2) They come into force as follows—

- (a) as regards this Part and Part 2, on the day after the day on which they are made;
- (b) as regards the remainder, on exit day.

PART 2

Amendment of out of date references

The Fertilisers Regulations 1991

2.—(1) The Fertilisers Regulations 1991(a) are amended as follows.

(2) Omit regulations 1A and 2.

(3) Before regulation 3 insert—

“Scope: “EC fertilisers”

2A. These Regulations do not apply to fertilisers designated as “EC fertilisers”.

(4) In regulation 3—

- (a) in the heading omit “not designated as EEC fertilisers or EC fertilisers”;
- (b) renumber the existing regulation as paragraph (1) of regulation 3;
- (c) omit the words from “, not being designated” to “EC fertiliser,”.

(5) In regulation 3A—

- (a) renumber the existing regulation as paragraph (2) of regulation 3;
- (b) omit the words from “, not being designated” to “EC fertiliser,”.

(6) In regulation 4(4) and (5) omit the words from “, not being designated” to “EC fertilisers,”.

(7) In the following regulations omit the words from “, not being designated” to “EC fertiliser,”—

- (a) regulation 7(b) and (c);
- (b) regulation 9(b) and (c).

(8) In regulation 10(1), in the words before paragraph (a), for the words from the beginning to “as respects” substitute “As respects”.

(9) Omit regulation 11.

(10) Schedule 1 is amended in accordance with paragraphs (11) to (13).

(a) S.I. 1991/2197, amended by S.I. 1995/16, 1998/2024, 2011/1043; there is another amending instrument but it is not relevant.

(11) In the following paragraphs omit the words from “, not being designated” to “EC fertilisers,”—

- (a) paragraph 6;
- (b) paragraph 7(a)(i) and (b).

(12) In Section B of the table, in column (4), in the table relating to nitrogen, in each place it occurs—

- (a) omit the column headed “EC fertiliser”;
- (b) in the second column, for “Other than EEC fertilisers or EC fertiliser” substitute “Fertiliser”.

(13) In Section C of the table, in group 2, in column (4), in each place they occur, omit—

- (a) “EC fertiliser”;
- (b) “Other than EEC fertilisers or EC fertiliser”.

(14) Schedule 2 is amended in accordance with paragraphs (15) and (16).

(15) In Part 1, in paragraph 1—

- (a) omit sub-paragraph (a);
- (b) in sub-paragraph (i) omit the words from the beginning to “EC fertilisers,”;
- (c) in sub-paragraph (k), in the second sentence omit the words from “, sold” to “EC fertiliser,”.

(16) In Part 2, in paragraph 2 omit the words from the beginning to “EC fertiliser,”.

The Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003

3. In Schedule 2 to the Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003(a), in paragraph 12, in notes 1 and 2, for the words from “Annex II” to “87/94/EEC” substitute “Annex 3 to Regulation (EC) No 2003/2003 of the European Parliament and of the Council relating to fertilisers(b)”.

The EC Fertilisers (England and Wales) Regulations 2006

4.—(1) The EC Fertilisers (England and Wales) Regulations 2006(c) are amended as follows.

(2) In the following regulations, for “National Assembly for Wales”, in each place it occurs, substitute “Welsh Ministers”—

- (a) regulation 10;
- (b) regulation 14;
- (c) regulation 19.

(3) In regulation 10—

- (a) in paragraph (2), for “it” substitute “they”;
- (b) in paragraph (3), for “it” substitute “them”.

(4) Omit regulation 16.

(5) In regulation 17(c), for “33” substitute “30”.

(a) S.I. 2003/1082, to which there are amendments not relevant to these Regulations.

(b) OJ No L 304 21.11.2003, p 1, as last amended by Commission Regulation (EU) 2016/1618 (OJ No L 242, 9.9.2016, p 24).

(c) S.I. 2006/2486, amended by S.I. 2011/1043.

PART 3

Amendment of retained direct EU legislation

Regulation (EC) No 2003/2003 of the European Parliament and of the Council relating to fertilisers

5.—(1) Regulation (EC) No 2003/2003 of the European Parliament and of the Council relating to fertilisers is amended as follows.

(2) In the Regulation—

- (a) for “EC fertiliser”, in each place it occurs, substitute “UK fertiliser”;
- (b) for “EC fertilisers”, in each place it occurs, substitute “UK fertilisers”;
- (c) for “European standard” or “European Standard”, in each place it occurs, substitute “recognised standard”;
- (d) for “European Standards”, in each place it occurs, substitute “recognised standards”.

(3) In Article 2—

- (a) the existing text becomes paragraph 1;
- (b) in that paragraph—
 - (i) in point (r), for “Community legislation” substitute “retained EU law”;
 - (ii) for point (t) substitute—

“(t) ‘Recognised standard’ means either of the following standards:

- (i) CEN (European Committee for Standardisation);
- (ii) BSI (the British Standards Institution).”;
- (iii) in point (w), for “customs territory of the European Community” substitute “United Kingdom”;
- (iv) after point (x) insert—

“(y) “Appropriate authority” means:

- (i) in relation to a decision in respect of ammonium nitrate fertilisers of high nitrogen content where the decision is outside devolved competence, the Secretary of State;
- (ii) in relation to a decision in respect of other fertilisers:
 - in relation to England, the Secretary of State;
 - in relation to Wales, the Welsh Ministers;
 - in relation to Scotland, the Scottish Ministers;
 - in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.

(z) “Enforcement authority” means:

- (i) in England and Wales, an enforcement authority specified in regulation 11 of the EC Fertilisers (England and Wales) Regulations 2006;
- (ii) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994^(a);
- (iii) in Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.

(z1) “Relevant authority” means:

- (i) in relation to Wales, the Welsh Ministers;
- (ii) in relation to Scotland, the Scottish Ministers;

(a) 1994 c. 39.

- (iii) in relation to Northern Ireland, the Department of Agriculture, Environment and Rural Affairs.”;
- (c) after that paragraph insert—
 - “2. References in this Regulation to devolved competence are to be read in accordance with the following provisions:
 - (a) it is outside devolved competence to make any provision by subordinate legislation which would be outside the legislative competence of:
 - (i) in relation to Wales, the National Assembly for Wales if it were included in an Act of the Assembly (see section 108A of the Government of Wales Act 2006(a));
 - (ii) in relation to Scotland, the Scottish Parliament if it were included in an Act of the Parliament (see section 29 of the Scotland Act 1998(b));
 - (iii) in relation to Northern Ireland, the Northern Ireland Assembly if it were included in an Act of the Assembly (see section 6 of the Northern Ireland Act 1998(c));
 - (b) in the case of any function other than a function of making, confirming or approving subordinate legislation, it is outside devolved competence to exercise the function (or to exercise it in a particular way) if or to the extent that:
 - (i) in relation to Wales, a provision of an Act of the National Assembly for Wales conferring the function (or conferring it so as to be exercisable in that way) would be outside the legislative competence of the Assembly;
 - (ii) in relation to Scotland, a provision of an Act of the Scottish Parliament conferring the function (or conferring it so as to be exercisable in that way) would be outside the legislative competence of the Parliament;
 - (iii) in relation to Northern Ireland, a provision of an Act of the Northern Ireland Assembly conferring the function (or conferring it so as to be exercisable in that way) would be outside the legislative competence of the Assembly.”.
- (4) In Article 4, for “Community” (including in the heading) substitute “United Kingdom”.
- (5) Omit Article 5.
- (6) In Article 6—
 - (a) in paragraph (1), in the first subparagraph, in the words before point (a)—
 - (i) for the words from the beginning to “may” substitute “Nothing in this Regulation prevents the appropriate authority, in order to satisfy the requirements of Article 9, from using any power the appropriate authority has to”;
 - (ii) for “their market” substitute “the market”;
 - (b) in paragraph (2), in the first subparagraph, in the words before point (a)—
 - (i) for “Member States may” substitute “Nothing in this Regulation prevents the appropriate authority from using any power the appropriate authority has to”;
 - (ii) for “their markets” substitute “the market”;
 - (c) in paragraph (3), for “Member States” substitute “The appropriate authority”.
- (7) In Article 8, in the second sentence, for “Member States” substitute “the enforcement authority”.
- (8) In Article 9—
 - (a) in paragraph 1, in the first subparagraph, in the words before point (a) omit “Without prejudice to other Community rules,”;

(a) Section 108A was substituted, for section 108 as originally enacted, by the Wales Act 2017 (c. 4), section 3(1) and amended, from a date to be appointed, by the European Union (Withdrawal) Act 2018, section 12(3).

(b) Section 29 was amended by the Scotland Act 2012 (c. 11), section 9(2) and S.I. 2011/1043.

(c) 1998 c. 47. Section 6 was amended, from a date to be appointed, by the European Union (Withdrawal) Act 2018, section 12(5) and was amended by S.I. 2011/1043.

(b) for paragraph 4 substitute—

“4. The Secretary of State may make regulations in relation to the application of this Article.”.

(9) In Article 11, for the words from “at least” to the end substitute “English and may also appear in other languages”.

(10) In Article 15—

(a) in paragraph 1—

(i) in the first sentence—

(aa) for “a Member State” substitute “the appropriate authority”;

(bb) for “it may” substitute “nothing in this Regulation prevents the appropriate authority from using any power the appropriate authority has to”;

(ii) for the second sentence substitute—

“Except in the case of a decision in respect of ammonium nitrate fertilisers of high nitrogen content where the decision is outside devolved competence, the appropriate authority shall immediately inform the other appropriate authorities, giving the reasons for the decision.”;

(b) for paragraph 2 substitute—

“2. The Secretary of State may, by regulations, in relation to a fertiliser which has been temporarily prohibited from the market under paragraph 1:

(a) amend Annex 1 to impose special conditions in relation to the fertiliser, or

(b) remove the fertiliser from Annex 1.

2A. Regulations under paragraph 2 must be made as soon as reasonably practicable—

(a) after the date of receipt of the information referred to in paragraph 1, or

(b) where there is no such information, after the date on which the temporary prohibition begins or special conditions are imposed, as the case may be.

2B. Except in the case of a decision in respect of ammonium nitrate fertilisers of high nitrogen content where the decision is outside devolved competence, if a decision is made not to make regulations under paragraph 2, the Secretary of State must immediately inform the other appropriate authorities. After the date of a decision not to make regulations under paragraph 2, the prohibition or special conditions imposed under paragraph 1 no longer have effect.”;

(c) in paragraph 3, for “Commission or by a Member State” substitute “appropriate authority”.

(11) In Article 26(3), in the second sentence, for “Member States” substitute “the enforcement authority”.

(12) In Article 27—

(a) in the first sentence, for “EC” substitute “UK”;

(b) in the second sentence omit “or 33(1)”;

(c) in the third sentence—

(i) for “competent authority of the Member State concerned” substitute “appropriate authority”;

(ii) for “European Community” substitute “United Kingdom”.

(13) In Article 29—

(a) in paragraph 1—

(i) in the first subparagraph, for “Member States may” substitute “Nothing in this Regulation prevents the appropriate authority from using any power the appropriate authority has to”;

- (ii) in the second subparagraph, for “Member States may” substitute “Nothing in this Regulation prevents the appropriate authority from using any power the appropriate authority has to”;
 - (b) in paragraph 2, for “Member States” substitute “The enforcement authority”;
 - (c) in paragraph 4—
 - (i) in the first sentence, for “Commission shall” substitute “Secretary of State may, by regulations,”;
 - (ii) omit the second sentence;
 - (iii) in the third sentence, for the words from “same procedure” to “needed to” substitute “Secretary of State may, by regulations,”;
 - (iv) in the fourth sentence, for “Such rules” substitute “Regulations”.
- (14) In Article 30—
- (a) in paragraph 1—
 - (i) in the first sentence, for the words from “Member States” to “territories” substitute “The Secretary of State must publish a list of approved laboratories”;
 - (ii) omit the third sentence;
 - (b) omit paragraph 2;
 - (c) in paragraph 3—
 - (i) in the first sentence—
 - (aa) for “a Member State” substitute “the Secretary of State”;
 - (bb) for the words from “it shall raise” to the end substitute “the Secretary of State must remove the name from the list referred to in that paragraph”;
 - (ii) omit the second sentence;
 - (d) after paragraph 3 insert—

“3A. The Secretary of State may only act under this Article with the consent of each person who is a relevant authority.”;
 - (e) omit paragraphs 4 and 5.
- (15) In Article 31—
- (a) at the end of the heading insert “and technical adaptations”;
 - (b) in paragraph 1, for “Commission shall” substitute “Secretary of State may, by regulations,”;
 - (c) in paragraph 2, for the words from “the technical documents” to the end substitute “any relevant guidance and the provisions of Regulation (EC) No 1907/2006”;
 - (d) in paragraph 3, for “Commission shall” substitute “Secretary of State may, by regulations,”;
 - (e) omit paragraph 4.
- (16) For Article 32 substitute—

“Article 32

Regulations

1. Regulations made under this Regulation are to be made by statutory instrument.
2. Any power to make regulations conferred by this Regulation is the power to make regulations in relation to the whole of the United Kingdom.
3. Except in relation to regulations in respect of ammonium nitrate fertilisers of high nitrogen content where the regulations are outside devolved competence, the Secretary of State may not make regulations under this Regulation without the consent of each person who is a relevant authority.

4. Except in relation to regulations in respect of ammonium nitrate fertilisers of high nitrogen content where the regulations are outside devolved competence, where any of the relevant authorities requests that the Secretary of State make regulations under this Regulation, the Secretary of State must have regard to that request.
 5. A statutory instrument containing regulations made under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.
 6. Such regulations may—
 - (a) contain consequential, incidental, supplementary, transitional or saving provision (including provision amending, repealing or revoking enactments (which has the meaning given by section 20(1) of the European Union (Withdrawal) Act 2018));
 - (b) make different provision for different purposes.”.
- (17) Omit Chapter 2 of Title 4.
- (18) In Article 35—
- (a) omit paragraph 1;
 - (b) in paragraph 2—
 - (i) for “the Directives repealed” substitute “Directives 76/116/EEC, 77/535/EEC, 80/876/EEC and 87/94/EEC”;
 - (ii) omit the second and third sentences.
- (19) Omit Articles 36 to 38.
- (20) After Article 38 omit the words from “This Regulation” to “Member States.”.
- (21) In Annex 1—
- (a) in Section A.2, in the table, in item 1, in column 6, in the third paragraph, after “the Netherlands” insert “Iceland, Liechtenstein, Norway”;
 - (b) in Sections B.1, B.2 and B.4, for “for fertilisers based on Thomas slag: solubility (6a) (France, Italy, Spain, Portugal, Greece, Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia, Slovakia, Bulgaria, Romania), (6b) (Germany, Belgium, Denmark, Ireland, Luxembourg, Netherlands, United Kingdom and Austria)” substitute “for fertilisers based on Thomas slag: solubility (6b)”;
 - (c) in E.3, for “requirements of Council Directive 67/548/EEC” substitute “provisions of Regulation (EC) No 1272/2008”.
- (22) In Annex 3, in paragraph 1.6, in the first subparagraph, for “the Committee” substitute “this Regulation”.
- (23) In Annex 4, in Section A, in the following provisions, for “Member States” substitute “appropriate authority”—
- (a) paragraph 2;
 - (b) paragraph 4.1, the second sentence.
- (24) In Annex 5—
- (a) omit Section A;
 - (b) in section B, in paragraph 1 omit the second indent.

The EEA agreement

6. In Annex 2 to the EEA agreement, in Chapter 14 (fertilisers), in point 1 omit the words from “The provisions of the Regulation shall” to the end.

PART 4

Amendment of primary and secondary legislation

The Agriculture Act 1970

7. In section 74A(4) of the Agriculture Act 1970(a), for “implementing or supplementing any EU instrument” substitute “supplementing retained direct EU legislation”.

The Fertilisers Regulations 1991

8.—(1) The Fertilisers Regulations 1991 are amended as follows.

(2) In regulation 2A, in the heading and in the regulation, for “EC” substitute “UK”.

(3) After regulation 2A insert—

“Scope: “EC fertilisers”

2B. These Regulations do not apply to fertilisers designated as “EC fertilisers” which comply with the requirements set out in Regulation (EC) No 2003/2003(b) as it has effect in EU law as amended from time to time, where those fertilisers are placed on the market before the end of the period of two years beginning with exit day.”.

(4) In Schedule 2, in Part 1, in paragraph 1(j), for “European Union” substitute “United Kingdom”.

The Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003

9.—(1) The Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003 are amended as follows.

(2) In regulation 2(2)—

(a) in the definition of “batch”—

(i) in paragraph (a), in the words before sub-paragraph (i), omit the words from “which is” to the end;

(ii) omit paragraph (b);

(b) in the definition of “competent laboratory”, in paragraph (a), for “European Union” substitute “United Kingdom”.

(3) In regulation 4—

(a) in paragraph (1) omit “from within the European Union”;

(b) in paragraph (2)—

(i) in the words before sub-paragraph (a) omit “from outside the European Union”;

(ii) omit sub-paragraphs (a) and (b);

(iii) in sub-paragraph (c), for “each such” substitute “a”;

(c) in paragraph (5)—

(i) in sub-paragraph (a) omit the words from the beginning to “Union,”;

(ii) omit sub-paragraph (b) (together with the preceding “and”).

(4) In regulation 5—

(a) omit paragraph (1)(b) (together with the preceding “and”);

(a) 1970 c. 40. Section 74A was inserted by the European Communities Act 1972, Schedule 4, paragraph 6; subsection (4) was amended by S.I. 2011/1043.

(b) OJ No L 304, 21.11.2003, p 1, as last amended by Commission Regulation (EU) 2016/1618 (OJ No L 242, 9.9.2016, p 24).

- (b) in paragraph (2) omit “from outside the European Union”;
- (c) in paragraph (3), in the words after paragraph (b) omit “, where the material has been imported from outside the European Union.”;
- (d) in paragraph (9)(c) omit “, if applicable,”, in the first place it occurs.
- (5) In regulation 9(5)(a), for “European Union” substitute “United Kingdom”.
- (6) After regulation 12 insert—

“Transitional provision

13.—(1) This regulation applies to relevant ammonium nitrate material imported into Great Britain from within the European Union, where that material is imported into Great Britain before the end of the period of two years beginning with exit day.

(2) In regulation 2(2)(a), the definition of “competent laboratory” applies as if the reference to the United Kingdom were a reference to the United Kingdom and the European Union.

(3) Regulation 4(2)(c) does not apply.”.

- (7) In Schedule 3, in the words before sub-paragraph (a) omit “outside the European Union”.

The EC Fertilisers (England and Wales) Regulations 2006

10.—(1) The EC Fertilisers (England and Wales) Regulations 2006 are amended as follows.

(2) In regulation 3—

(a) in the heading, for “EC” substitute “UK”;

(b) in paragraph (1)—

(i) in the words before sub-paragraph (a), for “an “EC” substitute “a “UK”;

(ii) in sub-paragraph (b), for “European Union” substitute “United Kingdom”.

(3) In regulation 4(a), for “an “EC fertiliser”” substitute “a UK fertiliser”.

(4) In regulation 5—

(a) in the heading, for “EC” substitute “UK”;

(b) in paragraphs (1), (2) and (3), in the words before sub-paragraph (a), for “an EC” substitute “a UK”.

(5) In regulations 6(a), 7(a) and 8(a), for “an EC” substitute “a UK”.

(6) Omit regulation 12(2)(b) (together with the preceding “and”).

(7) In regulation 17(a)(ii) omit “paragraphs (2) or (5) of”.

(8) In regulation 18(1), for “an EC” substitute “a UK”.

Name
Minister of State

Date Department for Environment, Food and Rural Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in part in exercise of the powers conferred by the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular section 8(2)(a), (b), (d) and (g)) arising from the withdrawal of the United Kingdom from the European Union. They are also made in part to amend domestic legislation that is out of date.

Part 2 makes amendments to provisions in secondary legislation on fertilisers and ammonium nitrate material that are out of date. Regulation 2 amends the Fertilisers Regulations 1991 (S.I. 1991/2197) to remove references to EEC fertilisers and EC fertilisers, since the EU fertilisers regime is dealt with in other legislation. Regulation 3 amends the Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003 (S.I. 2003/1082) and regulation 4 amends the EC Fertilisers (England and Wales) Regulations 2006 (S.I. 2006/2486).

The remainder of the Regulations makes amendments arising from the withdrawal from the European Union to legislation regulating fertilisers and ammonium nitrate material. Part 3 amends retained direct EU legislation and Part 4 amends primary and secondary legislation.

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

© Crown copyright 2019

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

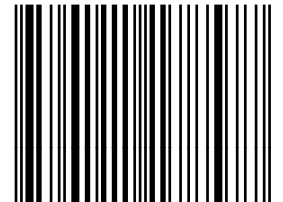
£6.90

UK201901151031 01/2019 19585

<http://www.legislation.gov.uk/id/ukdsi/2019/9780111178577>

Tudalen y pecyn 64

ISBN 978-0-11-117857-7



9 780111 178577

EXPLANATORY MEMORANDUM TO
THE FERTILISERS AND AMMONIUM NITRATE MATERIAL (AMENDMENT)
(EU EXIT) REGULATIONS 2019

2019 No. XXXX

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Environment, Food and Rural Affairs (“Defra”) and is laid before Parliament by Act.

2. Purpose of the instrument

- 2.1 This instrument amends legislation relating to fertilisers, addressing failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom (“UK”) from the European Union (“EU”). In particular, it creates a new domestic regime to replace the EU regime in the UK and ensures continuity of supply of EU fertilisers after exit day. It also in part amends domestic legislation that is out of date.

Explanations

What did any relevant EU law do before exit day?

- 2.2 Regulation EC No 2003/2003 of the European Parliament and of the Council relating to fertilisers (“the EU Regulation”) lays down rules on the designation, definition, composition, identification and packaging of ‘EC fertilisers’ which can be freely traded throughout the EU.

Why is it being changed?

- 2.3 After exit, without amendment the relevant EU law would not operate properly and it would disrupt the trade in fertilisers currently authorised under EU law. Changes must be made to maintain fertiliser standards in UK law and provide continuity to the sector and security of supply for farmers.

What will it now do?

- 2.4 This instrument replaces the ‘EC fertiliser’ regime in EU law with a new domestic regime, providing for a ‘UK fertiliser’ label which will function in the same way. It also allows a two year transitional period during which ‘EC fertilisers’ can still be sold in the UK without a requirement to be relabelled, to ensure continued supply and reduce burdens on businesses as a result of exit. The instrument also amends the rules on the import of ammonium nitrate fertilisers to uphold current safety standards at the same time as ensuring consistency.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 The territorial application of this instrument varies between provisions.
- 3.3 The powers under which this instrument is made cover the entire UK (see in particular section 24 of the European Union (Withdrawal) Act 2018) and the territorial application of this instrument is set out in paragraph 4.2.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the UK except for regulations 2, 3, 8 and 9 which extend to England and Wales and Scotland, and regulations 4 and 10 which extend to England and Wales.
- 4.2 The territorial application of this instrument is the UK, except for regulations 2, 3, 8 and 9 which apply to England and Wales and Scotland, and regulations 4 and 10 which apply to England and Wales.

5. European Convention on Human Rights

- 5.1 The Minister of State for Agriculture, Fisheries and Food, George Eustice MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2019 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 The EU Regulation sets out the rules which apply to fertilisers which are designated as ‘EC fertilisers’. Fertilisers are partially harmonised in that it is permissible for Member States to have domestic regimes in addition to the EU rules. The domestic regime for the UK is set out in the Fertilisers Regulations 1991 (S.I. 1991/2197) (for Great Britain (“GB”)) and the Fertilisers Regulations (Northern Ireland) 1992 (S.R. 1992/187). In addition, there are specific rules in GB concerning ammonium nitrate material in the Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003 (S.I. 2003/1082) (“the AN Regulations”).
- 6.2 As a result of exit, corrections are required to the EU Regulation to convert the EU regime into a UK one, replacing the ‘EC fertiliser’ label with a ‘UK fertiliser’ label. This also requires amendment to the related domestic Regulations which currently enforce the EU Regulation (for England and Wales, the EC Fertilisers (England and Wales) Regulations 2006 (S.I. 2006/2486); amendment to Scottish and Northern Ireland legislation in this regard is being made separately). Finally, amendment to the domestic regime is also required to reflect these changes.
- 6.3 In addition, there are some changes to out of date references in the domestic legislation. These need to be amended to ensure clarity for users of the legislation. Some changes to out of date references in the AN Regulations are being made in a separate instrument (the Pesticides and Fertilisers (Miscellaneous Amendments) (EU Exit) Regulations 2019 – see <https://www.gov.uk/eu-withdrawal-act-2018-statutory-instruments/the-pesticides-and-fertilisers-miscellaneous-amendments-eu-exit-regulations-2019>) because they are subject to the negative procedure. These will come into force before exit day.

7. Policy background

What is being done and why?

- 7.1 Fertilisers are materials that provide nutrients to plants and are essential yearly inputs for the UK agricultural, horticultural and amenity sectors. The manufacturing and marketing of fertilisers are regulated by legislation that provides for their definition, composition, labelling and packaging. The UK imports the majority of its fertiliser requirement to supplement domestic production.
- 7.2 Manufacturers can currently choose which legislative framework (EU or UK) they want their products to comply with but, having chosen, their products must comply with the relevant rules. This will continue to apply but there will be two options under the UK framework for marketing of fertilisers in the UK.
- 7.3 The new option under the UK framework provides for the replacement of the 'EC fertiliser' label (and all the rules that have to be complied with to allow the use of that label) with a 'UK fertiliser' label that will ensure that the same rules apply. It will further allow 'EC fertilisers' to continue to be sold in the UK for a two year transitional period, without the need for relabelling. This is to ensure essential business continuity and predictability for manufacturers and distributors, as well as for farmers.
- 7.4 The instrument makes amendments to the relevant pieces of domestic and EU legislation to allow them to operate properly after exit. For example, references to Member States and the EU Commission are amended to refer instead to UK authorities; and a requirement as to the language to be used on labels is also amended. There are also amendments to the domestic regime, in particular to remove out of date references to 'EEC fertilisers' and 'EC fertilisers'.
- 7.5 Amendments to Articles 6, 15 and 29 of the EU Regulation include provision that preserves the possibility of certain action by the relevant bodies in the UK which they previously had when the UK was a Member State. These relate to options for prescribing how specified fertilisers should be identified; the possibility of temporarily prohibiting the placing on the market of a fertiliser or making it subject to special conditions if there are justifiable grounds for believing that it constitutes a risk to safety or health of humans, animals or plants or a risk to the environment; and finally the option of subjecting fertilisers to official control measures and charging for those tests. The specific powers to take such actions are found in domestic legislation (see in particular the EC Fertilisers (England and Wales) Regulations 2006, which implemented the provisions in Articles 6 and 15 in regulations 5(1)(c), 6(c)(ii), 7(d) and 19).
- 7.6 The instrument also amends the AN Regulations which regulate fertilisers with high nitrogen content, since they can be misused as improvised explosives and pose safety risks if mishandled in manufacture, transport or storage. Currently the rules for imports from the EU are different from those for imports from outside the EU. Following the UK's exit from the EU, the rules need to be consolidated so that the import requirements apply consistently to all imported material. The critical safety aspects of the AN Regulations (in particular detonation resistance tests) will apply the more stringent third country regime to all imports. There are transitional arrangements (for two years) for imports from the EU in relation to the time limit for valid detonation resistance test certificates (60 days between testing of the material and its arrival in GB) and also the competent laboratories that can conduct detonation

resistance tests (those in the EU as well as in the UK). These arrangements mean that the current rules for EU imports in this regard will continue to apply for two years. This is to give manufacturers time to prepare for compliance with the new import rules and to ensure continuity of supply for the next two years.

- 7.7 Fertilisers are a devolved matter in Scotland and Wales and a transferred matter in Northern Ireland. However, decisions regarding ammonium nitrate are reserved in GB insofar as the subject matter of those decisions relates to health and safety and in Northern Ireland insofar as it relates to explosives. The corrections being made by this instrument to the fertilisers domestic and EU legislation provide for a common UK approach to fertilisers designated as ‘UK fertiliser’. This will ensure a consistent and clear policy, without the need for a different set of rules for each Devolved Administration. It has been agreed that the Secretary of State will be empowered to make regulations with regard to ‘UK fertilisers’ for the UK only with the consent of the Devolved Administrations.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument is being made using the power in section 8 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the UK from the EU. The instrument is also made under paragraph 21(b) of Schedule 7 to that Act. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.
- 8.2 Alongside the European Union (Withdrawal) Act 2018 powers, the instrument is also being made under section 2(2) of the European Communities Act 1972. This relates to the amendments to out of date references in domestic legislation.

9. Consolidation

- 9.1 This instrument is not consolidating any provisions.

10. Consultation outcome

- 10.1 This instrument was not subject to formal consultation. However, there were discussions with key stakeholders (the fertiliser manufacturers’ representative body (the Agricultural Industries Confederation) and the farmers’ representative body (the National Farmers’ Union)) about their concerns regarding exit in relation to fertiliser policy. Their main concerns were that there should be uninterrupted fertiliser supply and no added cost burdens to manufacturers and importers. This has been addressed through allowing for a time-limited adjustment period to allow time for relabelling and compliance with the new rules.
- 10.2 The changes to the rules on ammonium nitrate materials have also been developed in conjunction with the Health and Safety Executive.
- 10.3 This instrument and the policy reflected in it has been developed in collaboration with Devolved Administration officials.

11. Guidance

- 11.1 A Technical Notice has been published on the gov.uk website (see <https://www.gov.uk/government/publications/manufacturing-and-marketing->

[fertilisers-if-theres-no-brex-it-deal/manufacturing-and-marketing-fertilisers-if-theres-no-brex-it-deal](#)). Further more detailed guidance will be published for stakeholders.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because the instrument relates to the maintenance of existing regulatory standards and no significant impacts are expected. There will be a time-limited period during which 'EC fertilisers' can be placed on the UK market as now, to ensure continued supply and minimise disruption. In addition, there will be a time-limited period during which importers of ammonium nitrate materials from the EU can operate as they do now.
- 12.4 In a scenario where an agreement with the EU is not reached, UK manufacturers of fertilisers would need to comply with the EU Regulation if they want to continue exporting to the EU after exit day, which means that they will need to send samples to EU laboratories for testing. This change is a result of EU exit and 'EC fertiliser' requirements, not because of changes made by this instrument. UK laboratories will still be recognised as competent testing bodies under UK law.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses.
- 13.3 The basis for the final decision on what action to take to assist small businesses was that no disproportionate impacts are expected to affect small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that Defra and its agencies, as well as the Devolved Administrations in relation to devolved matters, will monitor and review the impact of the instrument as part of their standard policy-making procedures, and will ensure that the provisions are adhered to.
- 14.2 In respect of provisions in Part 2 of the instrument, the Regulations do not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, the Minister of State for Agriculture, Fisheries and Food, George Eustice MP, has made the following statement. The Minister considers that inserting a review provision is not appropriate, because there is not expected to be a significant annualised net impact on business (greater than +/- £5 million net annualised). It would not be proportionate to undertake a review, given the costs of doing so and the limited scope for change, particularly in relation to out of date references.
- 14.3 In respect of provisions of this instrument which are made under the European Union (Withdrawal) Act 2018, no review clause is required.

15. Contact

- 15.1 Henry Webber at Defra Telephone: 020 8026 9863 or email: henry.webber@defra.gov.uk can be contacted with any queries regarding the instrument.

- 15.2 Maggie Charnley, acting as Deputy Director for the fertiliser policy area, at Defra can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 George Eustice MP at Defra can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.

Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and 23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Appropriateness statement

- 1.1 The Minister of State for Agriculture, Fisheries and Food, George Eustice MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2019 do no more than is appropriate.”

- 1.2 This is the case because: the amendments to retained direct EU legislation and domestic legislation are the minimum required to make the legislation operable and they maintain current regulatory standards.

2. Good reasons

- 2.1 The Minister of State for Agriculture, Fisheries and Food, George Eustice MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action.”

- 2.2 These are: the amendments to retained direct EU legislation and domestic legislation are the minimum required to make the legislation operable. They maintain current regulatory standards and ensure the continued supply of ‘EC fertilisers’ and ammonium nitrate materials for a two year transitional period, providing continuity to the sector and security of supply for farmers.

3. Equalities

- 3.1 The Minister of State for Agriculture, Fisheries and Food, George Eustice MP, has made the following statement(s):

“The instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”

- 3.2 The Minister of State for Agriculture, Fisheries and Food, George Eustice MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the instrument, I, George Eustice MP have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

4. Explanations

- 4.1 The explanations statement has been made in section 2 of the main body of this Explanatory Memorandum.

5. Legislative sub-delegation

5.1 The Minister of State for Agriculture, Fisheries and Food, George Eustice MP, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view it is appropriate to create a relevant sub-delegated power in the Fertilisers and Ammonium Nitrate Material (Amendment) (EU Exit) Regulations 2019.”

5.2 This is appropriate because: the relevant power in Article 30 of the EU Regulation concerns the identity of approved laboratories for the purposes of testing of fertilisers. The list of approved laboratories will be published and will not be made by legislation; this reflects the current process undertaken by the EU Commission. It is therefore not appropriate for the removal of a laboratory from the list because it does not meet the required standards to be made by way of legislation.

SICM(5)18 – Rheoliadau Gwrteithiau a Deunydd Amoniw m Nitrad (Diwygio) (Ymadael â'r UE) 2019

Y cefndir

Bwriedir i'r Rheoliadau cadarnhaol hyn gael eu gwneud gan Lywodraeth y DU yn unol ag:

- adran 8(1) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, a pharagraff 21(b) o Atodlen 7 iddi, ac
- adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972.

Crynodeb

Ar ôl ymadael, heb ei diwygio, ni fyddai cyfraith gymwys yr UE yn gweithredu'n iawn, a byddai'n amharu ar y fasnach o ran gwrtaith sydd wedi'i awdurdodi ar hyn o bryd o dan gyfraith yr UE. Mae newidiadau yn cael eu gwneud i gynnal safonau gwrtaith yng nghyfraith y DU ac i roi parhad i'r sector a sicrwydd o ran y cyflenwad i ffermwyr.

Mae'r offeryn hwn yn disodli'r gyfundrefn 'gwrtaith y Comisiwn Ewropeaidd' yng nghyfraith yr UE gyda threfn ddomestig newydd, sy'n darparu ar gyfer label 'gwrtaith y DU' a fydd yn gweithredu yn yr un modd. Mae hefyd yn caniatáu cyfnod pontio o ddwy flynedd, pan fydd modd i 'wrteithiau'r UE' gael eu gwerthu yn y DU o hyd, heb ofyniad i'w hail-labelu, er mwyn sicrhau cyflenwad parhaus ac i leihau'r baich ar fusnesau o ganlyniad i ymadael. Mae'r offeryn hefyd yn diwygio'r rheolau o ran mewnfurio gwrtaith amoniwm nitrad, i gynnal safonau diogelwch cyfredol ar yr un pryd â sicrhau cysondeb.

Datganiad gan Lywodraeth Cymru

Mae'r Cynghorwyr Cyfreithiol yn gwneud y sylwadau a ganlyn mewn perthynas â datganiad Llywodraeth Cymru dyddiedig **2 Tachwedd 2018** ynghylch y Rheoliadau.

Yn wreiddiol, cynigiwyd y Rheoliadau i ddilyn y weithdrefn datrys negyddol yn Senedd y DU ym mis **Tachwedd 2018**. Pan osodwyd y Rheoliadau drafft gwreiddiol gerbron Senedd y DU ar gyfer eu sifftio, gosododd Gweinidogion Cymru gerbron y Cynulliad ddatganiad a oedd yn crynhoi effaith y Rheoliadau drafft, yn unol â Rheol Sefydlog 30C.

Ymddengys nad oedd y Rheoliadau drafft erioed wedi cael eu gwneud yn ffurfiol. Yn lle hynny, gosodwyd y Rheoliadau newydd hyn a fydd yn dilyn y weithdrefn penderfyniad cadarnhaol.



Mae'r fersiwn gadarnhaol hon o'r Rheoliadau hyn yn **wahanol** i'r fersiwn negyddol arfaethedig o'r Rheoliadau. Y gwahaniaeth pwysicaf, at ddibenion y Pwyllgor, yw bod y Rheoliadau cadarnhaol newydd yn diwygio Deddf Amaethyddiaeth 1970 ac felly yn ei gwneud yn ofynnol i osod Memorandwm Cydsyniad Offeryn Statudol (SICM).

Mae Memorandwm Cydsyniad Offeryn Statudol wedi'i osod, ond nid yw Llywodraeth Cymru wedi gosod datganiad ysgrifenedig wedi'i ddiweddarau i adlewyrchu'r newid a wnaed i'r Rheoliadau. Mae'r Pwyllgor o'r farn bod y Rheoliadau cadarnhaol newydd yn gyfres wahanol o reoliadau, ac felly y dylai Llywodraeth Cymru wneud datganiad ysgrifenedig newydd yn unol â Rheol Sefydlog 30C.

Cytundeb Rhynglywodraethol ar Fil yr Undeb Ewropeaidd (Ymadael)

Mae'r crynodeb uchod a chynnwys y Memorandwm Esboniadol i'r Rheoliadau hyn yn cadarnhau eu heffaith ac i ba raddau y byddai'r Rheoliadau hyn yn creu polisi newydd mewn meysydd datganoledig.

O ran y diwygiad i Ddeddf Amaethyddiaeth 1970, rydym yn cydnabod mai mân newid drafftio yw hwn sy'n anorfod o ganlyniad i ymadael â'r Undeb Ewropeaidd.

Nid yw'r Cynghorwyr Cyfreithiol yn ystyried bod unrhyw faterion arwyddocaol yn codi o dan baragraff 8 y Memorandwm ar Fil yr Undeb Ewropeaidd (Ymadael) a Sefydlu Fframweithiau Cyffredin mewn perthynas â'r Rheoliadau hyn.

Cynnig cydsyniad o dan Reol Sefydlog 30A.10

Nid yw'r Cynghorwyr Cyfreithiol wedi nodi unrhyw reswm cyfreithiol i geisio cynnig cydsyniad o dan Reol Sefydlog 30A.10 mewn perthynas â'r Rheoliadau hyn

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

29 Ionawr 2019





Llywodraeth Cymru
Welsh Government

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL	Rheoliadau Mewnforio a Masnachu Anifeiliaid a Chynhyrchion Anifeiliaid (Diwygio etc.) (Ymadael â'r UE) 2019
DYDDIAD	21 Ionawr 2019
GAN	Rebecca Evans AC, Y Gweinidog Cyllid a'r Trefnydd

Rheoliadau Mewnforio a Masnachu Anifeiliaid a Chynhyrchion Anifeiliaid (Diwygio etc.) (Ymadael â'r UE) 2019 ("Rheoliadau 2019")

Y gyfraith sy'n cael ei diwygio

Offerynnau Ewropeaidd sy'n Uniongyrchol Gymwys

- Penderfyniad y Comisiwn 93/352 sy'n rhanddirymu rhai o'r amodau ar gyfer cymeradwyo safleoedd arolygu ar y ffin mewn porthladdoedd lle y caiff pysgod eu glanio;
- Penderfyniad y Comisiwn 94/360/EC ar gynnal archwiliadau corfforol yn llai aml ar lwythi o gynhyrchion penodol o drydydd gwledydd;
- Penderfyniad y Comisiwn 1997/152/EC ynglŷn â'r wybodaeth sydd i'w chynnwys yn y ffeil gyfrifiadurol o lwythi o anifeiliaid neu gynhyrchion anifeiliaid sy'n dod o drydydd gwledydd ac sy'n cael eu hanfon ymlaen;
- Penderfyniad y Comisiwn 1997/794/EC sy'n pennu rheolau manwl penodol ar gyfer cymhwyso Cyfarwydeb y Cyngor 91/496/EEC ar archwiliadau gan filfeddygon ar anifeiliaid byw i'w mewnforio o drydydd gwledydd;
- Penderfyniad y Comisiwn 2000/571/EC sy'n pennu'r dulliau i'w defnyddio wrth gynnal archwiliadau milfeddygol ar gynhyrchion o drydydd gwledydd y bwriedir eu cyflwyno i barthau rhydd, warysau rhydd, warysau'r tollau neu weithredwyr sy'n cyflenwi ffyrdd trawsffiniol o gludo ar y môr;
- Penderfyniad y Comisiwn 2000/572/EC sy'n pennu'r amodau o ran iechyd anifeiliad ac iechyd cyhoeddus a'r amodau milfeddygol ar gyfer rhoi tystysgrifau i fewnforio paratodau cig i'r Gymuned o drydydd gwledydd;
- Penderfyniad y Comisiwn 2001/812/EC sy'n pennu'r gofynion ar gyfer cymeradwyo safleoedd arolygu ar ffiniau sy'n gyfrifol am archwiliadau milfeddygol ar gynhyrchion sy'n dod i mewn i'r Gymuned o drydydd gwledydd;
- Penderfyniad y Comisiwn 2003/459/EC ar fesurau diogelu penodol mewn perthynas â firws brech y mwncïod;

- Penderfyniad y Comisiwn 2003/467/EC sy'n sefydlu'r statws swyddogol heb twbercwlosis, brwselosis a lewcosis ensöotig buchol sydd gan Aelod-wladwriaethau a rhanbarthau Aelod-wladwriaethau penodol mewn perthynas â buchesi;
- Penderfyniad y Comisiwn 2003/779/EC sy'n pennu'r gofynion o ran iechyd anifeiliaid ac ardystio milfeddygol sy'n gysylltiedig â mewnfurio casinau anifeiliaid o drydydd gwledydd ;
- Rheoliad y Comisiwn (EC) Rhif 136/2004 sy'n pennu'r gweithdrefnau ar gyfer archwiliadau milfeddygol a gynhelir ar safleoedd arolygu ar ffiniau'r Gymuned ar gynhyrchion sy'n cael eu mewnfurio o drydydd gwledydd;
- Rheoliad y Comisiwn (EC) Rhif 282/2004 sy'n cyflwyno dogfen ar gyfer datgan bod anifeiliaid o drydydd gwledydd yn dod i mewn i'r Gymuned a bod archwiliadau milfeddygol wedi eu cynnal arnynt;
- Rheoliad y Comisiwn (EC) Rhif 2005/1739/EC sy'n pennu'r gofynion o ran iechyd anifeiliaid ar gyfer symud anifeiliaid syrcas rhwng Aelod-wladwriaethau;
- Penderfyniad y Comisiwn 2006/168/EC sy'n sefydlu'r gofynion o ran iechyd anifeiliaid a thystysgrifau milfeddygol ar gyfer mewnfurio embryonau anifeiliaid o rywogaeth y fuwch i'r Gymuned;
- Penderfyniad y Comisiwn 2006/605/EC ar fesurau diogelu penodol mewn perthynas â masnach o fewn y Gymuned mewn dofednod y bwriedir eu defnyddio i ailstocio cyflenwadau o anifeiliaid hela gwyllt;
- Penderfyniad y Comisiwn 2007/25/EC ar fesurau diogelu penodol mewn perthynas â ffliw adar pathogenig iawn a symud adar anwes sy'n teithio gyda'u perchenogion i mewn i'r Gymuned;
- Penderfyniad y Comisiwn 2007/240/EC sy'n pennu tystysgrifau milfeddygol newydd ar gyfer mewnfurio i'r Gymuned anifeiliaid byw, semen, embryonau, ofa a chynhyrchion sy'n dod o anifeiliaid;
- Penderfyniad y Comisiwn 2007/275/EC ynglŷn â rhestrau o anifeiliaid a chynhyrchion y mae'n rhaid arfer mesurau rheoli arnynt ar safleoedd arolygu ar ffiniau;
- Penderfyniad y Comisiwn 2007/777/EC sy'n pennu'r amodau o ran iechyd anifeiliaid ac iechyd cyhoeddus, a thystysgrifau enghreifftiol ar gyfer mewnfurio o drydydd gwledydd gynhyrchion cig penodol a stumogau, pledrenni a pherfedd wedi'u trin y bwriedir iddynt gael eu bwyta gan bobl;
- Penderfyniad y Comisiwn 2008/185/EC ar warantiadau ychwanegol yn ymwneud â chlefyd Aujeszky mewn perthynas â masnach o fewn y Gymuned mewn moch, a meini prawf ar gyfer darparu gwybodaeth am y clefyd hwn;
- Penderfyniad y Comisiwn 2008/636/EC sy'n sefydlu'r rhestr o drydydd gwledydd o le y mae Aelod-wladwriaethau yn awdurdodi mewnfurio ofa ac embryonau anifeiliaid o rywogaeth y mochyn;
- Rheoliad y Comisiwn (EC) Rhif 798/2008 sy'n pennu rhestr o drydydd gwledydd, tiriogaethau, parthau neu gompartmentau o le y caniateir i ddofednod a chynhyrchion dofednod gael eu mewnfurio i'r Gymuned a theithio drwyddi, a'r gofynion o ran tystysgrifau milfeddygol;
- Rheoliad y Comisiwn Rhif 1251/2008 sy'n gweithredu Cyfarwyddeb y Cyngor 2006/88/EC mewn perthynas ag amodau a gofynion ardystio ar gyfer rhoi ar y farchnad a mewnfurio i'r Gymuned anifeiliaid dyframaeth a'u cynhyrchion, ac sy'n pennu rhestr o rywogaethau sy'n fectorau;

- Rheoliad y Comisiwn (EC) Rhif 119/2009 sy'n pennu rhestr o drydydd gwledydd, neu rannau ohonynt, o le y caniateir mewnfurio i'r Gymuned, neu ganiatáu iddo deithio drwy'r Gymuned, gig anifeiliaid gwyllt o rywogaeth y gwningen nau'r ysgyfarnog, cig anifeiliaid tir gwyllt penodol a chig cwningod sy'n cael eu ffermio, a'r gofynion o ran tystysgrifau milfeddygol;
- Rheoliad y Comisiwn (EC) Rhif 206/2009 ar ddod â llwythi personol o gynhyrchion sy'n dod o anifeiliaid i mewn i'r Gymuned;
- Penderfyniad y Comisiwn 2009/712/EC sy'n gweithredu Cyfarwyddeb y Cyngor 2008/73/EC ynglŷn â thudalennu gwybodaeth ar y rhynggrwyd sy'n cynnwys rhestrau o sefydliadau a labordai a gymeradwywyd gan Aelod-wladwriaethau yn unol â deddfwriaeth filfeddygol a sootchnegol y Gymuned;
- Penderfyniad y Comisiwn 2009/821/EC sy'n llunio rhestr o safleoedd arolygu cymeradwy ar ffiniau, sy'n pennu rheolau penodol ar gyfer yr arolygiadau a gynhelir gan arbenigwyr milfeddygol y Comisiwn ac sy'n pennu'r unedau milfeddygol yn TRACES;
- Rheoliad y Comisiwn (EU) Rhif 206/2010 sy'n pennu rhestrau o drydydd gwledydd, tiriogaethau neu rannau ohonynt sydd wedi eu hawdurdodi i anfon anifeiliaid a chig ffres penodol i'r Undeb Ewropeaidd, ac sy'n pennu'r gofynion o ran tystysgrifau milfeddygol;
- Penderfyniad y Comisiwn 2010/470/EC sy'n pennu tystysgrifau iechyd enghreifftiol ar gyfer masnach o fewn yr Undeb mewn semen, ofa ac embryonau anifeiliaid o rywogaethau'r ceffyl, y ddafad a'r afr ac mewn ofa ac embryonau anifeiliaid o rywogaeth y mochyn;
- Penderfyniad y Comisiwn 2010/472/EC ar fewnfurio semen, ofa ac embryonau anifeiliaid o rywogaethau'r ddafad a'r afr;
- Rheoliad y Comisiwn (EU) No 605/2010 sy'n pennu'r amodau o ran iechyd anifeiliaid ac iechyd cyhoeddus ac o ran tystysgrifau milfeddygol ar gyfer cyflwyno i'r Undeb Ewropeaidd laeth amrwd, cynhyrchion llaeth, colostrwm a chynhyrchion sy'n seiliedig ar golostrwm y bwriedir iddynt gael eu bwyta gan bobl;
- Penderfyniad y Comisiwn 2011/163/EC ar gymeradwyo cynlluniau a gyflwynir gan drydydd gwledydd;
- Penderfyniad Gweithredu gan y Comisiwn 2011/215/EU sy'n gweithredu Cyfarwyddeb y Cyngor 97/78/EC mewn perthynas â thrawslwytho ar y safle arolygu ar y ffin neu gyflwyno llwythi o gynhyrchion y bwriedir eu mewnfurio i'r Undeb neu a fwriedir ar gyfer trydydd gwledydd;
- Penderfyniad Gweithredu gan y Comisiwn 2011/630/EU ar fewnfurio semen anifeiliaid domestig o rywogaeth y fuwch i'r Undeb;
- Rheoliad y Comisiwn (EU) Rhif 28/2012 sy'n pennu'r gofynion o ran tystysgrifau ar gyfer mewnfurio cynhyrchion cyfansawdd penodol i'r Undeb a chaniatáu iddynt deithio drwyddo;
- Penderfyniad Gweithredu gan y Comisiwn 2012/137/EU ar fewnfurio i'r Undeb semen anifeiliaid domestig o rywogaeth y mochyn;
- Rheoliad Gweithredu gan y Comisiwn (EU) 139/2013 sy'n pennu amodau o ran iechyd anifeiliaid ar gyfer mewnfurio adar penodol i'r Undeb, a'r amodau cwarantîn sy'n gysylltiedig â hynny;
- Penderfyniad Gweithredu gan y Comisiwn 2013/519 ynglŷn â'r rhestr o diriogaethau neu drydydd gwledydd o le yr awdurdodir mewnfurio cŵn, cathod a ffuredau yn unol â Chyfarwyddeb 92/65/EEC; Tudalen y pecyn 79

- Rheoliad (EU) Rhif 576/2013 Senedd Ewrop a'r Cyngor ar symud anifeiliaid anwes at ddibenion nad ydynt yn fasnachol;
- Rheoliad Gweithredu gan y Comisiwn Rhif 577/2013 ar y dogfennau adnabod enghreifftiol ar gyfer symud cŵn, cathod a ffuredau at ddibenion nad ydynt yn fasnachol, ar sefydlu rhestrau o diriogaethau a thrydydd gwledydd, ac ar y gofynion o ran fformat, cynllun ac iaith ar gyfer datganiadau sy'n ardystio y cydymffurfiwyd ag amodau penodol y darperir ar eu cyfer yn Rheoliad (EU) Rhif 576/2013;
- Rheoliad Gweithredu gan y Comisiwn (EU) Rhif 743/2013 sy'n cyflwyno mesurau diogelu mewn perthynas â mewnforio o Dwrci folysgiaid dwyragennog y bwriedir iddynt gael eu bwyta gan bobl;
- Penderfyniad Gweithredu gan y Comisiwn 2013/764/EU ynglŷn â mesurau rheoli iechyd anifeiliaid mewn perthynas â chlwy clasurol y moch mewn Aelod-wladwriaethau penodol;
- Rheoliad Gweithredu gan y Comisiwn (EU) Rhif 636/2014 ar dystysgrif enghreifftiol ar gyfer masnachu anifeiliaid hela gwyllt mawr heb eu blingo;
- Penderfyniad y Comisiwn 2015/1901/EU sy'n pennu rheolau ardystio a thystysgrif iechyd enghreifftiol ar gyfer mewnforio i'r Undeb lwythi o anifeiliaid gwyllt a chynhyrchion anifeiliaid o Seland Newydd;
- Penderfyniad Gweithredu gan y Comisiwn (EU) 2018/320 ar fesurau penodol yn ymwneud ag iechyd anifeiliaid mewn perthynas â'r ffwngws *Batrachochytrium salamandrivorans* ar gyfer masnach o fewn yr Undeb mewn salamandrau ac ar ddod ag anifeiliaid o'r fath i mewn i'r Undeb;
- Rheoliad Gweithredu gan y Comisiwn (EU) 2018/659 ar yr amodau ar gyfer dod ag equidae byw a'u semen, ofa ac embryonau i mewn i'r Undeb;
- Rheoliad Dirprwyedig y Comisiwn (EU) 2018/772 sy'n ategu Rheoliad (EC) Rhif 576/2013 Senedd Ewrop a'r Cyngor mewn perthynas â mesurau iechyd ataliol ar gyfer rheoli haint *Echinococcus multilocularis* mewn cŵn;
- Cyfarwyddeb y Cyngor 88/407/EEC sy'n pennu'r gofynion o ran iechyd anifeiliaid sy'n gymwys i fasnachu semen anifeiliaid domestig o rywogaeth y fuwch o fewn y Gymuned a'i fewnforio;
- Cyfarwyddeb y Cyngor 89/556/EEC ar amodau'n ymwneud ag iechyd anifeiliaid ar gyfer masnachu embryonau anifeiliaid domestig o rywogaeth y fuwch o fewn y Gymuned a'u mewnforio o drydydd gwledydd;
- Cyfarwyddeb y Cyngor 90/439/EEC sy'n pennu gofynion o ran iechyd anifeiliaid sy'n gymwys i fasnachu semen anifeiliaid domestig o rywogaeth y mochyn o fewn y Gymuned a'i fewnforio;
- Cyfarwyddeb y Cyngor 92/65/EEC sy'n pennu gofynion o ran iechyd anifeiliaid mewn perthynas â masnachu anifeiliaid, semen, ofa ac embryonau o fewn y Gymuned a'u mewnforio;
- Cyfarwyddeb y Cyngor 2002/99/EC sy'n pennu'r rheolau iechyd anifeiliaid ar gyfer cynhyrchu, prosesu, dosbarthu a chyflwyno cynhyrchion sy'n dod o anifeiliaid ac y bwriedir iddynt gael eu bwyta gan bobl;
- Cyfarwyddeb y Cyngor 2004/68/EC sy'n pennu'r rheolau iechyd anifeiliaid ar gyfer mewnforio carnolion byw penodol i'r Gymuned a chaniatáu iddynt deithio ar draws y Gymuned;

- Rheoliad (EC) Rhif 854/2004 Senedd Ewrop a'r Cyngor sy'n pennu rheolau penodol ar gyfer trefnu mesurau rheoli swyddogol ar gynhyrchion sy'n dod o anifeiliaid ac y bwriedir iddynt gael eu bwyta gan bobl;
- Cyfarwyddeb y Cyngor 2009/156/EC ar amodau'n ymwneud ag iechyd anifeiliaid ar gyfer symud equidae a'u mewnfario o drydydd gwledydd;
- Cyfarwyddeb y Cyngor 2009/158/EC ar amodau'n ymwneud ag iechyd anifeiliaid ar gyfer masnachu dofednod ac wyau deor o fewn y Gymuned a'u mewnfario o drydydd gwledydd.

Dirymir y darpariaethau a ganlyn mewn deddfwriaeth uniongyrchol yr UE a ddargedwir:

- Penderfyniad y Comisiwn 93/444/EC ar reolau manwl ar gyfer masnach o fewn y Gymuned mewn anifeiliaid byw a chynhyrchion penodol y bwriedir eu hallforio i drydydd gwledydd.
- Penderfyniad y Comisiwn 1995/410/EC sy'n pennu'r rheolau ar gyfer cynnal profion microbiolegol drwy samplu yn y sefydliad o le y daw dofednod, y'u bwriedir ar gyfer y Ffindir a Sweden, i'w lladd.
- Penderfyniad y Comisiwn 2004/292/EC ar gyflwyno system TRACES.
- Penderfyniad y Comisiwn Penderfyniad y Comisiwn 2006/146/EC ar fesurau diogelu penodol mewn perthynas ag ystlumod ffrwythau, cŵn a chathod sy'n dod o (Benrhyn) Malaysia ac Awstralia.
- Penderfyniad y Comisiwn 2006/65/EC ar fesurau diogelu penodol mewn perthynas â masnach o fewn y Gymuned mewn dofednod y bwriedir eu defnyddio i ailstocio cyflenwadau o adar hela gwyllt.
- Penderfyniad Gweithredu gan y Comisiwn 2013/503/EU sy'n cydnabod bod rhannau o'r Undeb yn rhydd o varroosis mewn gwenyn ac sy'n sefydlu'r gwarantiadau ychwanegol sy'n ofynnol wrth fasnachu gwenyn o fewn y Gymuned ac wrth eu mewnfario er mwyn diogelu'r statws rhydd o varroosis sydd gan y rhannau hynny.
- Rheoliad Gweithredu gan y Comisiwn (EU) 2018/878 sy'n mabwysiadu'r rhestr o Aelod-wladwriaethau, neu rannau o diriogaeth Aelod-wladwriaethau, sy'n cydymffurfio â'r rheolau categoreiddio a bennir yn Erthygl 2(2) a (3) o Reoliad Dirprwyedig (EU) 2018/772 mewn perthynas â mesurau iechyd ataliol er mwyn rheoli haint *Echinococcus multilocularis* mewn cŵn.

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

Gwneir y diwygiadau hyn gan yr Ysgrifennydd Gwladol mewn cysylltiad â deddfwriaeth y DU neu Brydain Fawr y mae gan Weinidogion Cymru swyddogaethau gweithredol mewn perthynas â hwy ac mae testun y ddeddfwriaeth, sef symud anifeiliaid a mesurau iechyd ataliol sy'n ymwneud â symud anifeiliaid mewn cysylltiad â Chymru o fewn cymhwysedd deddfwriaethol y Cynulliad Cenedlaethol.

Diben y diwygiadau

Mae Rheoliadau 2019 yn gwneud cywiriadau a fydd yn caniatâu i ddeddfwriaeth genedlaethol a domestig gael ei gweithredu unwaith y bydd y DU yn ymadael â'r UE drwy newid cyfeiriadau lle y bo angen, er enghraifft, rhoi "United Kingdom" yn lle "community" a rhoi "as published by the appropriate authority from time to time" yn lle "drawn up in

accordance with the model as set out in Part 1 of the Annex” a thrwy roi cyfeiriadau priodol at gyfraith yr UE sy'n cael ei dargadw, gan ddefnyddio pwerau o dan y Ddeddf Ymadael. Nid yw'r offeryn yn newid polisi mewn unrhyw fodd

Mae'r Rheoliadau a'r Memorandwm Esboniadol cysylltiedig, sy'n nodi effaith y diwygiadau, i'w gweld yma: <https://beta.parliament.uk/work-packages/D4Zg4HGP>

Pam y rhoddwyd cydsyniad

Rhoddwyd cydsyniad i Lywodraeth y DU wneud y cywiriadau hyn o ran, ac ar ran, Cymru am resymau'n ymwneud ag effeithlonrwydd, hwylustod ac oherwydd natur dechnegol y diwygiadau. Mae'r diwygiadau wedi cael eu hystyried yn llawn; ac nid oes unrhyw wahaniaeth o ran polisi. Diben y diwygiadau hyn yw sicrhau bod y llyfr statud yn parhau i weithio ar ôl i'r DU ymadael â'r UE.

**GWEINIDOGION Y DU SY'N GWEITHIO MEWN MEYSYDD
DATGANOLEDIG**

**78 - Rheoliadau Mewnforio a Masnachu Anifeiliaid a Chynhyrchion
Anifeiliaid (Diwygio etc.) (Ymadael â'r UE) 2019**

Gosodwyd yn Senedd y DU: 17 Ionawr 2019

Sifftio

A fydd angen eu sifftio yn Senedd y DU?	Na fydd
Gweithdrefn:	Cadarnhaol
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Tŷ'r Cyffredin	Amh.
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	21/01/2019
Dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	Amh.
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur 12
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Ddim yn ofynnol

Gweithdrefn graffu

Canlyniad y broses sifftio	Amh.
Y weithdrefn	Cadarnhaol
Dyddiad trafod gan y Cyd-bwyllgor ar Offerynnau Statudol	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Tŷ'r Cyffredin	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	Ddim yn hysbys

Sylwadau

Bwriedir i'r Rheoliadau hyn gael eu gwneud gan Lywodraeth y DU yn unol ag adran 8(1) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, a pharagraff 7 o Atodlen 4 a pharagraff 21(b) o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

Mae'r Rheoliadau hyn yn gwneud diwygiadau technegol i gyfres o Reoliadau a Phenderfyniadau'r Undeb Ewropeaidd sy'n ymwneud â mewnforio a chludo anifeiliaid byw, cynhyrchion sy'n dod o anifeiliaid, plasm cenhedlu a symud anifeiliaid anwes, ceffylau ac anifeiliaid syrcas.

Pwrpas y Rheoliadau yw mynd i'r afael â methiannau deddfwriaeth ddomestig a diffygion eraill sy'n deillio o ymadawiad y DU â'r UE. Mae'r Rheoliadau yn diwygio cyfeiriadau diangen at ddeddfau a systemau'r UE a fydd yn amherthnasol pan fydd y DU yn ymadael â'r UE, ac maent yn dirymu deddfau diangen yr UE ac yn

trosglwyddo cyfres o swyddogaethau o'r Comisiwn Ewropeaidd i'r "awdurdod priodol" yn y DU, sy'n golygu, mewn perthynas â Chymru, Weinidogion Cymru neu (gyda chydysyniad Gweinidogion Cymru) yr Ysgrifennydd Gwladol.

Mae'r Rheoliadau'n gymwys ar draws y Deyrnas Unedig gyfan ac yn darparu fframwaith cyfreithiol sy'n ymwneud â mewnfario, symud a masnachu anifeiliaid a chynhyrchion anifeiliaid, ac yn cynnwys trefniadau ar gyfer awdurdodi busnesau, dogfennau teithio anifeiliaid anwes, tystysgrifau iechyd anifeiliaid ac iechyd cyhoeddus ac amodau cludiant. Mae'r Rheoliadau hefyd yn galluogi awdurdodau yn y DU i gymryd camau mewn achosion o ddiffyg cydymffurfio neu achosion o glefydau.

Dim ond os bydd senario 'dim bargaen' y bydd y diwygiadau a wneir gan y Rheoliadau hyn yn dod i rym.

Mae'r Cynghorwyr Cyfreithiol yn gwneud y sylwadau a ganlyn mewn perthynas â datganiad Llywodraeth Cymru dyddiedig 21 Ionawr 2019 ynghylch effaith y Rheoliadau hyn:

1. Mae'r Rheoliadau pwnc, yn Atodlen 2, yn dirymu "Commission Decision 2006/65/EC on certain protection measures in relation to intra-Community trade in poultry intended for restocking of wild game supplies". Mae'n ymddangos bod cyfeirnod Penderfyniad y Comisiwn fel y'i nodir yn cynnwys gwall, ac y dylai ddarllen "2006/605 / EC".

Mae'r datganiad gan Lywodraeth Cymru yn cyfeirio at y cyfeirnod anghywir yn ei restr o ddeddfwriaeth uniongyrchol yr UE a ddargedwir sy'n cael ei dirymu, ond mae hefyd yn cynnwys cyfeiriad dyblyg at Benderfyniad y Comisiwn hwn (gyda'r cyfeirnod cywir) yn yr adran o'r enw "Offerynnau Ewropeaidd sy'n Uniongyrchol Gymwys".

2. Mae'r datganiad yn cadarnhau bod y diwygiadau yn y Rheoliadau hyn i gael eu gwneud "gan yr Ysgrifennydd Gwladol mewn cysylltiad â deddfwriaeth y DU neu Brydain Fawr y mae gan Weinidogion Cymru swyddogaethau gweithredol mewn perthynas â hwy ac mae testun y deddfwriaeth, sef symud anifeiliaid a mesurau iechyd ataliol sy'n ymwneud â symud anifeiliaid mewn cysylltiad â Chymru o fewn cymhwysedd deddfwriaethol y Cynulliad Cenedlaethol."

Fodd bynnag, nid yw'r datganiad yn nodi'r effaith y gallai'r Rheoliadau hyn ei chael ar gymhwysedd gweithredol Gweinidogion Cymru neu ar gymhwysedd deddfwriaethol y Cynulliad, fel sy'n ofynnol o dan Reol Sefydlog 30C.3(ii). Mae cynghorwyr cyfreithiol yn argymhell y dylid ceisio eglurhad ynghylch pa bwerau datganoledig yr effeithir arnynt.

Mae'r crynodeb uchod a chynnwys y Memorandwm Esboniadol i'r Rheoliadau hyn yn cadarnhau eu heffaith.

Gan ei bod yn aneglur o ddatganiad Llywodraeth Cymru dyddiedig 21 Ionawer 2019 ba effaith y gall y Rheoliadau ei chael ar gymhwysedd deddfwriaethol y Cynulliad a/neu gymhwysedd gweithredol Gweinidogion Cymru, nid yw'r Cynghorwyr Cyfreithiol wedi gallu asesu a oes unrhyw faterion arwyddocaol yn codi o dan baragraff 8 y Memorandwm ar Fil yr Undeb Ewropeaidd (Ymadael) a Sefydlu Fframweithiau Cyffredin mewn perthynas â'r Rheoliadau hyn.



DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL	Rheoliadau Iechyd Anifeiliaid Dyfrol ac Iechyd Planhigion (Swyddogaethau Deddfwriaethol) (Ymadael â'r UE) 2019
DYDDIAD	22 Ionawr 2019
GAN	Rebecca Evans AC, Y Gweinidog Cyllid a'r Trefnydd

Rheoliadau Iechyd Anifeiliaid Dyfrol ac Iechyd Planhigion (Swyddogaethau Deddfwriaethol) (Ymadael â'r UE) 2019 ("Rheoliadau 2019")

Y gyfraith sy'n cael ei diwygio

Offerynnau Ewropeaidd sy'n Uniongyrchol Gymwys

Nid yw Rheoliadau 2019 yn diwygio unrhyw offerynnau Ewropeaidd sy'n uniongyrchol gymwys.

Yn lle hynny, mae Rhan 2 o'r Rheoliadau hynny yn darparu ar gyfer pwerau i ddiwygio Atodiadau 1A a 3 o Reoliad y Comisiwn (EC) Rhif 1251/2008 sy'n gweithredu Cyfarwyddeb y Cyngor 3/88/EC mewn perthynas ag amodau a gofynion ardystio ar gyfer rhoi ar y farchnad a mewnfario i'r Gymuned anifeiliaid dyframaeth a'u cynhyrchion, ac sy'n pennu rhestr o rywogaethau sy'n fectorau. Mae'r pŵer i ddiwygio Atodiad 1A yn arferadwy pan fo'r diwygiad yn angenrheidiol neu'n briodol yng ngoleuni meini prawf penodedig penodol ac unrhyw asesiad a gynhelir sy'n berthnasol wrth benderfynu a yw clefyd yn glefyd egsotig ai peidio at ddiben yr Atodiad hwnnw (a rhaid i unrhyw asesiad y dibynnir arno at y diben hwnnw fod wedi cael ei gymeradwyo gan yr Ysgrifennydd Gwladol, Gweinidogion Cymru ac Adran yr Amgylchedd, Bwyd a Materion Gwledig). Mae'r pŵer i ddiwygio Atodiad 3 yn arferadwy pan fo'r diwygiad yn angenrheidiol neu'n briodol yng ngoleuni asesiad o'r risgiau i iechyd anifeiliaid dyfrol yn y Deyrnas Unedig sy'n gysylltiedig â chyflwyno anifeiliaid neu gynhyrchion dyframaeth a fegir neu a gynhyrchir mewn trydedd wlad (h.y. gwlad neu diriogaeth y tu allan i'r Deyrnas Unedig), gan ystyried ffactorau penodedig penodol. Mae'r pwerau o dan sylw yn cael eu rhoi yn gydredol, felly maent yn arferadwy gan Weinidogion Cymru a'r Ysgrifennydd Gwladol (ond rhaid iddo ef gael caniatâd Gweinidogion Cymru i arfer y pwerau hynny).

Mae Rhan 3 o'r Rheoliadau hynny yn darparu pŵer i ddiwygio Rheoliadau Iechyd Anifeiliaid (Ymadael â'r UE) 2019. Ymdriniwyd â hwy mewn datganiad hysbysu blaenorol. Mae Rhan 3 yn rhoi'r gallu i wneud, drwy gyfrwng Rheoliadau, y diwygiadau a ganlyn i Reoliadau Iechyd Tudalen y pecyn 86

Planhigion (Ymadael â'r UE) 2019@ diwygiadau i Atodlenni 1 – 7 (plâu planhigion a deunydd planhigion a reoleiddir) yng ngoleuni datblygiadau mewn gwybodaeth wyddonol neu dechnegol neu lle gellir eu cyfiawnhau'n dechnegol neu lle bônt yn gyson â'r risg i iechyd planhigion; diwygiadau i Atodlen 8 (rhanddirymiadau rhag gwaharddiadau a gofynion penodol) ar ôl i asesiad ystyried yr wybodaeth wyddonol a thechnegol sydd ar gael a chadarnhau y byddai'r diwygiadau'n dileu'r risg i iechyd planhigion neu'n diogelu rhagddi; diwygiadau i gydnabod pan fo trydydd gwledydd yn dangos bod ganddynt fesurau ffytoiechydol mewn perthynas â phlâu planhigion neu ddeunydd perthnasol sy'n gyfwerth â mesurau ffytoiechydol domestig, a diwygiadau er mwyn gwneud darpariaeth frys dros dro er mwyn atal pla planhigion rhag cael ei gyflwyno.

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

Gallai swyddogaethau a drosglwyddir â chydsyniad i'r Ysgrifennydd Gwladol fod yn gyfystyr â swyddogaethau un o Weinidogion y Goron at ddibenion Atodlen 7B i Ddeddf Llywodraeth Cymru 2006. Mae'n bosibl, felly, y gallai hynny gyfyngu ar gymhwysedd y Cynulliad i ddeddfu yn y meysydd hyn yn y dyfodol.

Diben y diwygiadau

Mae Rheoliadau 2019 yn rhoi swyddogaethau i awdurdodau yn y DU sy'n gyfwerth ag amryfal swyddogaethau deddfwriaethol sy'n arferadwy gan y Comisiwn Ewropeaidd mewn perthynas â deddfwriaeth yr UE ar iechyd anifeiliaid dyfrol ac iechyd planhigion ac maent yn trosi gweithdrefnau'r UE yn weithdrefnau priodol y DU fel sy'n briodol.

Mae'r Rheoliadau a'r Memorandwm Esboniadol cysylltiedig, sy'n nodi effaith y diwygiadau, i'w gweld yma: <https://beta.parliament.uk/work-packages/AcjQdNDh>

Pam y rhoddwyd cydsyniad

Rhoddwyd cydsyniad i Lywodraeth y DU wneud y cywiriadau hyn o ran, ac ar ran, Cymru am resymau'n ymwneud ag effeithlonrwydd, hwylustod ac oherwydd natur dechnegol y diwygiadau. Mae'r diwygiadau wedi cael eu hystyried yn llawn; ac nid oes unrhyw wahaniaeth o ran polisi. Diben y diwygiadau hyn yw sicrhau bod y llyfr statud yn parhau i weithio ar ôl i'r DU ymadael â'r UE.

**GWEINIDOGION Y DU SY'N GWEITHIO MEWN MEYSYDD
DATGANOLEDIG**

**79 - Rheoliadau Iechyd Anifeiliaid Dyfrol ac Iechyd Planhigion
(Swyddogaethau Deddfwriaethol) (Ymadael â'r UE) 2019**

Gosodwyd yn Senedd y DU: 17 Ionawr 2019

Sifftio

A fydd angen eu sifftio yn Senedd y DU?	Na fydd
Gweithdrefn:	Cadarnhaol
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Tŷ'r Cyffredin	Amh.
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	21/01/2019
Dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	Amh.
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur 14
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Ddim yn ofynnol

Gweithdrefn graffu

Canlyniad y broses sifftio	Amh.
Y weithdrefn	Cadarnhaol
Dyddiad trafod gan y Cyd-bwyllgor ar Offerynnau Statudol	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Tŷ'r Cyffredin	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	Ddim yn hysbys

Sylwadau

Bwriedir i'r Rheoliadau hyn gael eu gwneud gan Lywodraeth y DU yn unol ag adran 8 (1) a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

Mae'r Rheoliadau hyn yn darparu ar gyfer nifer o swyddogaethau deddfwriaethol a roddir ar hyn o bryd gan ddeddfwriaeth yr Undeb Ewropeaidd (ym meysydd iechyd anifeiliaid dyfrol ac iechyd planhigion) i'w harfer yn lle hynny gan awdurdodau cyhoeddus (i gynnwys Gweinidogion Cymru) yn y Deyrnas Unedig fel y gellir eu harfer ar lefel genedlaethol ar ôl i'r DU ymadael â'r UE.

Mae'r Cynghorwyr Cyfreithiol yn cytuno â'r datganiad a osodwyd gan Lywodraeth Cymru dyddiedig 22 Ionawr 2019 ynghylch effaith y Rheoliadau hyn.

Mae'r crynodeb uchod a chynnwys y Memorandwm Esboniadol i'r Rheoliadau hyn yn cadarnhau eu heffaith.

Nid yw'r Cynghorwyr Cyfreithiol yn ystyried bod unrhyw faterion arwyddocaol yn codi o dan baragraff 8 o'r Memorandwm ar Fil yr Undeb Ewropeaidd (Ymadael) a Sefydlu Fframweithiau Cyffredin mewn perthynas â'r Rheoliadau hyn.

Nid yw'r Cynghorwyr Cyfreithiol wedi nodi unrhyw reswm cyfreithiol i geisio cynnig cydsyniad o dan Reol Sefydlog 30A.10 mewn perthynas â'r Rheoliadau hyn.



DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL	Rheoliadau Cemegion (Iechyd a Diogelwch) ac Organeddau a Addaswyd yn Enetig (Defnydd Cyfyngedig) (Diwygio etc.) (Ymadael â'r UE) 2019
DYDDIAD	24 Ionawr 2019
GAN	Rebecca Evans AC, Y Gweinidog Cyllid a'r Trefnydd

Rheoliadau Cemegion (Iechyd a Diogelwch) ac Organeddau a Addaswyd yn Enetig (Defnydd Cyfyngedig) (Diwygio etc.) (Ymadael â'r UE) 2019 ("Rheoliadau 2019")

Y gyfraith sy'n cael ei diwygio

Offerynnau Ewropeaidd sy'n Uniongyrchol Gymwys

- Rheoliad (EC) Rhif 1907/2006 Senedd Ewrop a'r Cyngor dyddiedig 18 Rhagfyr 2006 ynglŷn â Chofrestru, Gwerthuso, Awdurdodi a Chyfyngu ar Gemegion (REACH);
- Rheoliad (EC) Rhif 1272/2008 Senedd Ewrop a'r Cyngor dyddiedig 16 Rhagfyr 2008 ar gategoreiddio, labelu a phacio sylweddau a chymysgeddau;
- Rheoliad y Comisiwn (EU) Rhif 544/2011 dyddiedig 10 Ebrill 2011 sy'n gweithredu Rheoliad (EC) Rhif 1107/2009 Senedd Ewrop a'r Cyngor ar y gofynion data ar gyfer sylweddau actif;
- Rheoliad y Comisiwn (EU) Rhif 545/2011 dyddiedig 10 Ebrill 2011 sy'n gweithredu Rheoliad (EC) Rhif 1107/2009 Senedd Ewrop a'r Cyngor ar y gofynion data ar gyfer cynhyrchion diogelu planhigion;
- Rheoliad y Comisiwn (EU) Rhif 547/2011 dyddiedig 8 Mehefin 2011 sy'n gweithredu Rheoliad (EC) Rhif 1107/2009 Senedd Ewrop a'r Cyngor ar y gofynion labelu ar gyfer cynhyrchion diogelu planhigion;
- Rheoliad (UE) Rhif 528/2012 Senedd Ewrop a'r Cyngor dyddiedig 22 Mai 2012 ar roi cynhyrchion bioleiddiadol ar gael ar y farchnad a'u defnyddio;
- Rheoliad (EU) Rhif 649/2012 Senedd Ewrop a'r Cyngor dyddiedig 4 Gorffennaf ar allforio a mewnfario cemegion peryglus;
- Rheoliad y Comisiwn (EU) Rhif 283/2013 dyddiedig 1 Mawrth 2013 sy'n nodi'r gofynion data ar gyfer sylweddau actif, yn unol â Rheoliad (EC) Rhif 1107/2009 Senedd Ewrop a'r Cyngor ar roi cynhyrchion diogelu planhigion ar y farchnad;
- Rheoliad y Comisiwn (EU) Rhif 284/2013 dyddiedig 1 Mawrth 2013 sy'n nodi'r gofynion data ar gyfer cynhyrchion diogelu planhigion, yn unol â Rheoliad (EC) Rhif 1107/2009 Senedd Ewrop a'r Cyngor ar roi cynhyrchion diogelu planhigion ar y farchnad;

- Rheoliad Gweithredu gan y Comisiwn (EU) Rhif 354/2013 dyddiedig 18 Ebrill 2013 ar newidiadau o ran cynhyrchion bioleiddiadol a awdurdodwyd yn unol â Rheoliad (EU) Rhif 528/2012 Senedd Ewrop a'r Cyngor;
- Rheoliad Gweithredu gan y Comisiwn (EU) Rhif 414/2013 dyddiedig 6 Mai 2013 sy'n pennu gweithdrefn ar gyfer awdurdodi'r cynhyrchion bioleiddiadol hynny yn unol â Rheoliad (EU) Rhif 528/2012 Senedd Ewrop a'r Cyngor;
- Rheoliad Gweithredu gan y Comisiwn (UE) Rhif 88/2014 dyddiedig 31 Ionawr 2014 sy'n pennu gweithdrefn ar gyfer diwygio Atodiad I i Rheoliad (EU) Rhif 528/2012 Senedd Ewrop a'r Cyngor ar roi cynhyrchion bioleiddiadol ar gael ar y farchnad a'u defnyddio;
- Rheoliad Dirprwyedig y Comisiwn (EU) Rhif 1062/2014 dyddiedig 4 Awst 2014 ar y rhaglen waith ar gyfer archwilio mewn ffordd systematig yr holl sylweddau actif sydd mewn cynhyrchion bioleiddiadol ar hyn o bryd ac y cyfeirir atynt yn Rheoliad (EU) Rhif 528/2012 Senedd Ewrop a'r Cyngor;

Deddfwriaeth annomestig arall

- Rhan 2 o Atodiad II i'r cytundeb ar yr Ardal Economaidd Ewropeaidd.

Is-ddeddfwriaeth sydd i'w chywiro

- Rheoliadau lechyd a Diogelwch (Awdurdod Gorfodi) 1998;
- Rheoliadau Rheoli Sylweddau Peryglus i lechyd 2002;
- Rheoliadau Sylweddau Peryglus ac Atmosfferau Ffrwydrol 2002;
- Rheoliadau Cynhyrchion Diogelu Planhigion (Ffioedd a Thaliadau) 2011;
- Rheoliadau Cemegion a Chynhyrchion Bioleiddiadol (Penodi Awdurdodau a Gorfodi) 2013;
- Rheoliadau Cemegion a Chynhyrchion Bioleiddiadol (Penodi Awdurdodau a Gorfodi) (Gogledd Iwerddon) 2013;
- Rheoliadau Organeddau a Addaswyd yn Enetig (Defnydd Cyfyngedig) 2014;
- Rheoliadau Rheoli Peryglon Damweiniau Mawr 2015;
- Rheoliadau Ffrwydron (Penodi Awdurdodau a Gorfodi) (Gogledd Iwerddon) 2015;
- Rheoliadau Cynhyrchion (Ffioedd a Thaliadau) 2015;
- Rheoliadau Organeddau a Addaswyd yn Enetig (Ffioedd a Thaliadau) (Gogledd Iwerddon) 2015;
- Rheoliadau lechyd a Diogelwch a Niwclear (Ffioedd) 2016.

Mae'r darnau a ganlyn o gyfraith uniongyrchol yr UE a ddargedwir yn cael eu diddymu—

Rheoliad y Comisiwn (EU) Rhif 440/2010 dyddiedig 21 Mai 2010 ar y ffioedd a'r taliadau sy'n daladwy i'r Asiantaeth Gemegion Ewropeaidd yn unol â Rheoliad (EC) Rhif 1272/2008 Senedd Ewrop a'r Cyngor ar gategoreiddio, labelu a phacio sylweddau a chymysgeddau.

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

Mae cyfundrefn Gemegion y DU yn cwmpasu materion sydd wedi'u datganoli a materion a gadwyd yn ôl, oherwydd bwriedir Tudalen 10 yn ymuno â diogelwch gweithwyr (mater sydd

wedi'i chadw'n ôl yng Nghymru a'r Alban) yn ogystal ag iechyd y cyhoedd a'r amgylchedd (materion sydd wedi'u datganoli). Mae rheolaeth ar fewnforio ac allforio cemegion heblaw gwrteithiau a phlaladdwyr hefyd yn faterion sydd wedi'u cadw'n ôl, ac felly hefyd gynnal profion ar anifeiliaid at ddibenion gwyddonol.

Mae darpariaeth yn yr OS hwn sy'n galluogi Gweinidogion Cymru i arfer swyddogaethau o ran Cymru yn ddilyffethair ac i Weinidogion Cymru roi cydsyniad i'r Ysgrifennydd Gwladol arfer swyddogaethau o ran Cymru. Byddai swyddogaethau a drosglwyddir i'r Ysgrifennydd Gwladol i'w harfer yn gydredol â chydsyniad Gweinidogion Cymru yn gyfystyr â swyddogaethau un o Weinidogion y Goron at ddibenion Atodlen 7B i Ddeddf Llywodraeth Cymru 2006. Mae'n bosibl, felly, bod hynny'n ystyriaeth berthnasol yng nghyd-destun cymhwysedd y Cynulliad i ddeddfu yn y meysydd hyn yn y dyfodol.

Mae swyddogaethau a drosglwyddir fel eu bod yn arferadwy gan yr Ysgrifennydd Gwladol yn unig, neu a drosglwyddir i'r Ysgrifennydd Gwladol ond sy'n arferadwy gyda chydsyniad yr Awdurdodau Datganoledig yn unig mewn perthynas â thiriogaethau datganoledig, yn swyddogaethau un o Weinidogion y Goron at ddibenion Atodlen 7B i Ddeddf Llywodraeth Cymru 2006. Pe bai'r Cynulliad yn cyflwyno Bil yn y dyfodol i geisio dileu neu addasu'r swyddogaethau hyn, gallai hynny olygu y bydd gofyn ymgynghori â Llywodraeth y DU.

Mae swyddogaethau a drosglwyddir i'r Awdurdod Gweithredol Iechyd a Diogelwch yn unig yn swyddogaethau awdurdod cyhoeddus heblaw am Awdurdod Cymreig datganoledig at ddibenion Atodlen 7B i Ddeddf Llywodraeth Cymru 2006. Mae'n bosibl, felly, bod hynny'n ystyriaeth berthnasol yng nghyd-destun cymhwysedd y Cynulliad i ddeddfu yn y meysydd hyn yn y dyfodol.

Diben y diwygiadau

Mae Rheoliadau 2019 yn gwneud yr addasiadau sydd eu hangen er mwyn parhau i gymhwyso'r rheolau presennol a nodir mewn cyfraith ar ôl i'r DU Ymadael â'r UE. Maent yn arbennig o bwysig er mwyn hwyluso cadwyni cyflenwi cemegion, sy'n hollbwysig ym maes gweithgynhyrchu ac mewn diwydiannau sy'n defnyddio cemegion, oherwydd eu bod yn nodi'r amodau y mae'n rhaid eu bodloni cyn mewnforio sylweddau a chymysgeddau cemegol i'r DU, cyn eu gweithgynhyrchu neu cyn eu rhoi ar y farchnad.

Mae'r Rheoliadau a'r Memorandwm Esboniadol cysylltiedig sy'n nodi effaith y diwygiadau i'w gweld yma: <https://beta.parliament.uk/work-packages/XnzRsY2j>

Pam y rhoddwyd cydsyniad

Rhoddwyd cydsyniad i Lywodraeth y DU wneud y cywiriadau hyn o ran, ac ar ran, Cymru am resymau'n ymwneud ag effeithlonrwydd, hwylustod ac oherwydd natur dechnegol y diwygiadau. Mae'r diwygiadau wedi cael eu hystyried yn llawn; ac nid oes unrhyw wahaniaeth o ran polisi. Diben y diwygiadau hyn yw sicrhau bod y llyfr statud yn parhau i weithio ar ôl i'r DU ymadael â'r UE.

**GWEINIDOGION Y DU SY'N GWEITHIO MEWN MEYSYDD
DATGANOLEDIG**

**80 - Rheoliadau Cemegion (Iechyd a Diogelwch) ac Organeddau a
Addaswyd yn Enetig (Defnydd Cyfyngedig) (Diwygio etc.) (Ymadael â'r
UE) 2019**

Gosodwyd yn Senedd y DU: 21 Ionawr 2019

Sifftio

A fydd angen eu sifftio yn Senedd y DU?	Na fydd
Gweithdrefn:	Cadarnhaol
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Tŷ'r Cyffredin	Amh.
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	21/01/2019
Dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	Amh.
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur 16
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Ddim yn ofynnol

Gweithdrefn graffu

Canlyniad y broses sifftio	Amh.
Y weithdrefn	Cadarnhaol
Dyddiad trafod gan y Cyd-bwyllgor ar Offerynnau Statudol	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Tŷ'r Cyffredin	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	Ddim yn hysbys

Sylwadau

Bwriedir i'r Rheoliadau hyn gael eu gwneud gan Lywodraeth y DU yn unol ag adran 8(1) o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018, a pharagraffau 1 a 7 o Atodlen 4 a pharagraff 21(b) o Atodlen 7 i'r Ddeddf.

Gwneir yr offeryn hwn gan ddefnyddio pwerau yn Neddf yr Undeb Ewropeaidd (Ymadael) 2018 ("y Ddeddf Ymadael") er mwyn mynd i'r afael â diffygion yng nghyfraith yr UE a ddargedwir mewn perthynas â chemegau a deddfwriaeth organeddau a addaswyd yn enetig (GMO) sy'n deillio o ymadawiad y Deyrnas Unedig (DU) â'r Undeb Ewropeaidd (UE). Mae'r offeryn hwn yn sicrhau y bydd rheoliadau cemegau a GMO y DU yn parhau i weithredu'n effeithiol o'r diwrnod y bydd y DU yn

ymadael â'r UE ("Ymadael"). Nid yw'r offeryn hwn yn gwneud unrhyw newidiadau polisi y tu hwnt i'r bwriad o sicrhau gweithredoldeb parhaus y ddeddfwriaeth berthnasol.

Fel Rheoliadau Ewropeaidd sy'n gymwys yn uniongyrchol, heb angen i'w trosi i gyfraith y DU, caiff y Rheoliadau BPR, CLP a PIC eu dargadw o dan y trefniadau a gynigir yn Adran 3(1) o'r Ddeddf Ymadael. Mae'r offeryn yn gwneud cywiriadau i'r Rheoliadau hyn gan ddefnyddio'r pwerau yn y Ddeddf Ymadael.

Oherwydd diwygiadau i'r Rheoliadau CLP a wneir yn yr offeryn hwn, mae diwygiadau i'w gwneud i ddeddfwriaeth islaw, h.y. deddfwriaeth sydd 'islaw' y Rheoliad CLP, ond sy'n dibynnu ar ddsbarthiad perygl, yn llwyr neu'n rhannol, i ddiffinio'r cwmpas a fwriadwyd ac i weithredu fel 'sbardun' ar gyfer mesurau rheoli risg ychwanegol. Mae hyn i sicrhau bod y ddeddfwriaeth islaw yn parhau i ddarparu'r cyfeiriadau priodol ac angenrheidiol at y Rheoliadau CLP a (lle bo angen) at restr dosbarthu a labelu gorfodol y DU y mae'r Rheoliadau CLP diwygiedig yn darparu ar eu cyfer.

Mae'r offeryn hwn hefyd yn diwygio rheoliadau perthnasol i fynd i'r afael â diffygion sy'n deillio o ymadawiad y DU â'r UE i ganiatáu i'r Awdurdod Gweithredol Iechyd a Diogelwch orfodi darpariaethau ac i adennill costau ar gyfer ei waith.

Mae'r Cynghorwyr Cyfreithiol yn gwneud y sylwadau a ganlyn mewn perthynas â datganiad Llywodraeth Cymru dyddiedig 24 Ionawr 2019 ynghylch effaith y Rheoliadau hyn:

- Mae'r datganiad yn cyfeirio at yr is-ddeddfwriaeth a ganlyn ar gyfer ei chywiro: Rheoliadau Cynhyrchion a Chemegau Bioleiddiadol (Pennu Awdurdodau a Gorfodaeth) (Gogledd Iwerddon) 2013; Rheoliadau Ffrwydrion (Pennu Awdurdodau a Gorfodaeth) (Gogledd Iwerddon) 2015; Rheoliadau Cynhyrchion Bioleiddiadol (Ffioedd a Thaliadau) (Gogledd Iwerddon) 2015; a Rheoliadau Organeddau a Addaswyd yn Enetig (Defnydd Cyfyngedig) (Gogledd Iwerddon) 2015. Fodd bynnag, mae paragraff 4.2 o'r Memorandwm Esboniadol yn nodi bod yr offerynnau hyn "...apply to Northern Ireland only...".

Mae'r crynodeb uchod a chynnwys y Memorandwm Esboniadol i'r Rheoliadau hyn yn cadarnhau eu heffaith.

Nid yw'r Cynghorwyr Cyfreithiol yn ystyried bod unrhyw faterion arwyddocaol yn codi o dan baragraff 8 o'r Memorandwm ar Fil yr Undeb Ewropeaidd (Ymadael) a Sefydlu Fframweithiau Cyffredin mewn perthynas â'r Rheoliadau hyn.



Llywodraeth Cymru
Welsh Government

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL Rheoliadau Cymorth Gwladwriaethol (Ymadael â'r UE) 2019
DYDDIAD 25 Ionawr 2019
GAN Jeremy Miles AC, Y Cwnsler Cyffredinol a'r Gweinidog Brexit

Rheoliadau Cymorth Gwladwriaethol (Ymadael â'r UE) 2019

Mae Rheoliadau 2019 yn gwneud diwygiadau i ddeddfwriaeth ym maes Cymorth gwladwriaethol. Yn bennaf, maent yn gwneud y canlynol;

- Trosglwyddo'r gwaith o gymeradwyo Cymorth gwladwriaethol a swyddogaethau rheoleiddio'r Comisiwn Ewropeaidd i'r Awdurdod Cystadleuaeth a Marchnadoedd;
- Trosglwyddo swyddogaethau sy'n ymwneud â chyhoeddi polisi a chanllawiau Cymorth gwladwriaethol i'r Awdurdod Cystadleuaeth a Marchnadoedd a'r Ysgrifennydd Gwladol.
- Disodli'r prawf i weld a yw Cymorth gwladwriaethol yn effeithio ar fasnachu rhwng Aelod-wladwriaethau gyda phrawf i weld a yw Cymorth gwladwriaethol yn effeithio ar fasnachu rhwng y Deyrnas Unedig a'r Undeb Ewropeaidd;
- Ailddatgan rhannau helaeth o ddarpariaethau gweithdrefnol yr UE gan roi cywiriadau priodol am ddiffygion.

Cyfraith yr UE sy'n uniongyrchol gymwys

- Erthyglau 107 i 109 o'r Cytuniad ar Weithrediad yr Undeb Ewropeaidd.
- Rheoliad gan y Comisiwn (UE) Rhif 702/2014 dyddiedig 25 Mehefin 2014 yn datgan categorïau penodol o gymorth yn y sector amaethyddiaeth a'r sector coedwigaeth ac mewn ardaloedd gwledig sy'n gydnaws â'r farchnad fewnol wrth gymhwyso Erthyglau 107 a 108 o'r Cytuniad ar Weithrediad yr Undeb Ewropeaidd;
- Rheoliad gan y Comisiwn (UE) Rhif 360/2012 dyddiedig 25 Ebrill 2012 ar gymhwyso Erthyglau 107 a 108 o'r Cytuniad ar Weithrediad yr Undeb Ewropeaidd i gymorth *de minimis* a roddir i ymgymeriadau sy'n darparu gwasanaethau o fudd economaidd cyffredinol;
- Rheoliad gan y Comisiwn (UE) Rhif 1407/2013 dyddiedig 18 Rhagfyr 2013 ar gymhwyso Erthyglau 107 a 108 o'r Cytuniad ar Weithrediad yr Undeb Ewropeaidd i gymorth *de minimis*;
- Rheoliad gan y Comisiwn (UE) Rhif 1408/2013 dyddiedig 18 Rhagfyr 2013 ar gymhwyso Erthyglau 107 a 108 o'r Cytuniad ar Weithrediad yr Undeb Ewropeaidd i gymorth *de minimis* yn y sector amaethyddiaeth;

- Rheoliad gan y Comisiwn (UE) Rhif 1388/2014 dyddiedig 16 Rhagfyr 2014 yn datgan categorïau penodol o gymorth ar gyfer ymgymeriadau sy'n weithredol wrth gynhyrchu, prosesu a marchnata cynhyrchion pysgodfeydd a dyframaethu sy'n gydnaws â'r farchnad fewnol wrth gymhwyso Erthyglau 107 a 108 o'r Cytuniad ar Weithrediad yr Undeb Ewropeaidd;
- Rheoliad gan y Comisiwn (UE) Rhif 651/2014 dyddiedig 17 Mehefin 2014 yn datgan categorïau penodol o gymorth sy'n gydnaws â'r farchnad fewnol wrth gymhwyso Erthyglau 107 a 108 o'r Cytuniad;
- Penderfyniad gan y Comisiwn 2012/21/UE dyddiedig 20 Rhagfyr 2011 ar gymhwyso Erthygl 106(2) o'r Cytuniad ar Weithrediad yr Undeb Ewropeaidd i Gymorth gwladwriaethol ar ffurf iawndal gwasanaeth cyhoeddus a roddir i ymgymeriadau penodol sy'n gyfrifol am weithredu gwasanaethau o fudd economaidd cyffredinol;

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

Swyddogaethau sy'n arferadwy gan yr Awdurdod Cystadleuaeth a Marchnadoedd

Mae Paragraff 10 (1) o Atodlen 7B i Ddeddf Llywodraeth Cymru 2006 yn berthnasol fan hyn. Mae hwn yn darparu na all darpariaeth mewn Deddf gan y Cynulliad ddileu nac addasu, neu roi pŵer drwy is-ddeddfwriaeth i ddileu neu addasu, unrhyw swyddogaeth awdurdod cyhoeddus ac eithrio awdurdod datganoledig Cymreig, oni fydd y Gweinidog (y DU) priodol yn cydsynio i'r ddarpariaeth. Mae hyn yn golygu y byddai unrhyw ymgais gan y Cynulliad i ddeddfu yn y dyfodol mewn perthynas â Chymorth gwladwriaethol ac addasu swyddogaethau'r Awdurdod Cystadleuaeth a Marchnadoedd, er enghraifft drwy ddatgymhwyso ei swyddogaethau mewn perthynas â Chymru, yn gofyn am gydsyniad y Gweinidog y Goron priodol.

Swyddogaethau sy'n arferadwy gan yr Awdurdod Cystadleuaeth a Marchnadoedd gyda chydsyniad Gweinidog y Goron

Mae Paragraff 10 (1) o Atodlen 7B i Ddeddf Llywodraeth Cymru 2006 yn berthnasol fan hyn. Mae hwn yn darparu na all darpariaeth mewn Deddf gan y Cynulliad ddileu nac addasu, neu roi pŵer drwy is-ddeddfwriaeth i ddileu neu addasu, unrhyw swyddogaeth awdurdod cyhoeddus ac eithrio awdurdod datganoledig Cymreig, oni fydd y Gweinidog (y DU) priodol yn cydsynio i'r ddarpariaeth. Mae hyn yn golygu y byddai unrhyw ymgais gan y Cynulliad i ddeddfu yn y dyfodol mewn perthynas â Chymorth gwladwriaethol ac addasu swyddogaethau'r Awdurdod Cystadleuaeth a Marchnadoedd, er enghraifft drwy ddatgymhwyso ei swyddogaethau mewn perthynas â Chymru, yn gofyn am gydsyniad y Gweinidog y Goron priodol.

Swyddogaethau sy'n arferadwy gan yr Ysgrifennydd Gwladol (Gweinidog y Goron) mewn ymgynghoriad â Gweinidogion Cymru

Mae Paragraff 11(2) o Atodlen 7B i Ddeddf Llywodraeth Cymru 2006 yn berthnasol i arfer pŵer gan Weinidog y Goron mewn ymgynghoriad â Gweinidogion Cymru. Mae hwn yn darparu na all darpariaeth mewn Deddf gan y Cynulliad ddileu nac addasu, neu gyflwyno pŵer drwy is-ddeddfwriaeth i ddileu neu addasu, unrhyw swyddogaeth Gweinidog y Goron nad yw'n dod o fewn is-baragraff (1), oni bai bod Gweinidogion Cymru wedi ymgynghori â'r Gweinidog (y DU) priodol ynglŷn â'r darpariaeth. Mae hyn yn golygu os bydd y Cynulliad

yn cyflwyno deddfwriaeth yn y dyfodol mewn perthynas â Chymorth gwladwriaethol a fyddai'n ceisio addasu swyddogaethau'r Ysgrifennydd Gwladol, fel y nodir yn y Rheoliadau, byddai'n rhaid iddo ymgynghori â'r Gweinidog priodol cyn gwneud hynny.

Diben y diwygiadau

Mae Rhan 2 yn diwygio cyfraith yr UE a ddargedwir sy'n ymwneud â'r fframwaith cymorth gwladwriaethol sy'n parhau'n gyfraith ddomestig, neu'n llunio rhan ohoni, drwy rinwedd adran 4 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2014.

Mae Rhan 3 yn pennu'r broses i'r Awdurdod Cystadleuaeth a Marchnadoedd ymchwilio i gymorth hysbysedig, cymorth anghyfreithlon, cymorth a gamddefnyddiwyd a chynlluniau cymorth presennol.

Mae Rhan 4 yn cynnwys darpariaethau sy'n ymwneud â gorfodi.

Mae Rhan 5 yn cynnwys darpariaethau sy'n ymwneud ag adrodd ar gymorth a'i fonitro.

Mae Rhan 6 yn ei gwneud yn ofynnol i'r Awdurdod Cystadleuaeth a Marchnadoedd fabwysiadu datganiadau polisi a'u cyhoeddi.

Mae Pennod 1 o Ran 7 yn cynnwys darpariaethau cyffredinol sy'n ymwneud â chymorth mewn achosion brys, cyfraddau log a chyfnodau amser.

Mae Pennod 2 o Ran 7 yn dirymu cyfraith yr UE a ddargedwir benodol, yn mewnosod atodlen sy'n cynnwys darpariaethau trosiannol ac yn mewnosod atodlenni sy'n diwygio cyfraith yr UE a ddargedwir a deddfwriaeth arall.

Yn benodol, mae Atodlen 8 yn cynnwys darpariaethau trosiannol sy'n pennu sut y bydd y Rheoliadau hyn yn gymwys mewn perthynas â chymorth a roddir cyn y diwrnod ymadael.

Mae Atodlen 9 yn cynnwys diwygiadau i'r Rheoliad Eithriad Bloc Cyffredinol.

Mae Atodlen 10 yn cynnwys diwygiadau i deddfwriaeth arall, gan gynnwys Deddf Menter 2002 (p.40) a'r Ddeddf Menter a Diwygio Rheoleiddio 2013 (p.24).

Heb y darpariaethau a ddarperir yn yr OS hwn, ni fyddai unrhyw sail gyfreithiol uniongyrchol ar gyfer rheoleiddio Cymorth gwladwriaethol yn y DU.

Mae'r OS a'r Memoranda Esboniadol cysylltiedig sy'n nodi effaith pob un o'r diwygiadau i'w gweld yma: <https://beta.parliament.uk/work-packages/K0I2OYMP>

Pam na roddwyd cydsyniad

Er mai safbwynt Llywodraeth Cymru yw bod Cymorth gwladwriaethol yn fater sydd wedi'i ddatganoli, ac nid yn fater a gedwir yn ôl o dan unrhyw un o benawdau'r Atodlen Materion a Gedwir yn Ôl i Ddeddf Llywodraeth Cymru 2006, nid yw Llywodraeth y DU o'r un farn. Felly, nid yw Llywodraeth y DU wedi gofyn am gydsyniad Gweinidogion Cymru o dan delerau'r Cytundeb Rhynglywodraethol. Mae Llywodraeth Cymru wedi gofyn i Lywodraeth y DU am eglurhad o'i safbwynt cyfreithiol ond ni chafwyd unrhyw ymateb.

Ar wahân i hynny, mae Llywodraeth Cymru wedi dadlau y dylai'r rheoliadau Cymorth gwladwriaethol gynnwys gofyniad i gael cydsyniad Gweinidogion Cymru i gyhoeddi datganiad o bolisi gan yr Awdurdod Cystadleuaeth a Marchnadoedd (mae'r Rheoliadau'n darparu fel bod rhaid cael cydsyniad yr Ysgrifennydd Gwladol); cyhoeddi canllawiau gan yr Ysgrifennydd Gwladol sy'n ymwneud â chymeradwyo cymorth o dan 107(3) o'r Cytuniad ar Weithrediad yr Undeb Ewropeaidd; a phennu cosbau gweinyddol mewn perthynas â thorri'r rheolau Cymorth gwladwriaethol (swyddogaeth Ysgrifennydd Gwladol) gan ystyried nad yw

Cymorth gwladwriaethol yn fater a gedwir yn ôl. Nid yw'r Rheoliadau fel y'i gosodwyd yn darparu hyn.

Mae Gweinidogion Cymru wedi galw am gael rôl ystyrlon yn y gyfundrefn Cymorth gwladwriaethol yn y dyfodol, fodd bynnag nid yw'r Rheoliadau sydd wedi'u gosod yn darparu ar gyfer hyn.

Mae'r Rheoliadau yn gwneud amryw o ddiwygiadau canlyniadol i ddeddfwriaeth mewn meysydd datganoledig eraill y dylid bod wedi ceisio cydsyniad ar eu cyfer o dan y Cytundeb Rhynglywodraethol. Nid yw Llywodraeth y DU wedi ceisio cydsyniad ar gyfer y diwygiadau hyn.

Nodwyd y diwygiadau a ganlyn mewn meysydd wedi'u datganoli.

- Gorchymyn y Diwydiant Dŵr (Penderfynu ar Drosiant ar gyfer Cosbau) 2005
- Rheoliadau Ardoll Seilwaith Cymunedol 2010
- Deddf Cyfiawnder Troseddol a'r Heddlu 2001

Fodd bynnag, mae Llywodraeth Cymru, wedi iddi weld y rheoliadau drafft cyn iddynt gael eu gosod yn Nhŷ'r Cyffredin, o'r farn eu bod yn cyflawni amcanion polisi cyffredinol Gweinidogion Cymru o ennyn hyder partneriaid yr UE, a chadw'r hyder hwnnw, drwy helpu i sicrhau, a hynny mewn modd deinamig, bod cysondeb â rheolau Cymorth gwladwriaethol yr UE a bod modd cysoni'n effeithiol ar draws y DU. Yn ei dro, bydd hyn yn hollbwysig ar gyfer ein perthynas â'r Undeb Ewropeaidd yn y dyfodol. Bydd Llywodraeth Cymru yn parhau i weithio i sicrhau bod Memorandwm Cyd-ddealltwriaeth a fydd yn sylfaen i'r rheoliadau yn darparu fel bod gan Weinidogion Cymru rôl ystyrlon yn y broses o weinyddu cyfundrefn Cymorth gwladwriaethol y DU gyfan.

Jeremy Miles AC/AM
Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister



Llywodraeth Cymru
Welsh Government

Mick Antoniw AM
Chair,
Constitutional and Legislative Affairs Committee
Mick.Antoniw@assembly.wales

25 January 2019

Dear Mick,

I thought it pertinent to outline the approach Welsh Ministers have decided to take in response to the UK Government laying of the State Aid (EU Exit) Regulations in Parliament on 21 January 2019.

The regime established by this SI and the supporting Memorandum of Understanding (MoU) are an important step in ensuring dynamic alignment between the UK and the EU on State aid. Welsh Ministers are pleased that regulations will secure and maintain the confidence of our EU partners, facilitate a dynamic alignment with EU State aid rules, and will enable cross-UK alignment, which in turn will form an important cornerstone of our future relationship with the European Union.

The Welsh Government's position is that State aid is a devolved matter and not a reserved matter under any heading of the Reserved Matters Schedule in the Government of Wales Act 2006. However, the UK Government do not consider it as such (as was noted in the Intergovernmental Agreement) and therefore they have not requested Welsh Ministerial consent). The Welsh Government has requested from the UK Government, an explanation of their legal position but there has been no response.

The Minister for Economy and Transport has written to the Secretary of State for Business, Energy and Industrial Strategy to reiterate our position that it is not acceptable for UK Government Ministers to take unilateral decisions on matters which have a direct effect upon areas of devolved competency. Understanding the importance and time constraints of ensuring that these regulations are laid and in force by the time the UK leaves the European Union, it is vital that the long-term UK State aid regime is one which is developed, altered and owned by the UK Government and Devolved Administrations jointly.

Discussions are ongoing between BEIS and WG officials to consider implementation. Despite this, Welsh Ministers are disappointed that the regulations as they have been laid do not provide for decision making by mutual consent and do not provide for a State aid regime that is truly owned by all four Government's in the UK.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400
PSCGBM@gov.wales/YPCCGB@llyw.cymru

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

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

Tudalen y pecyn 99

It is possible for the Welsh Government to agree with the UK Government that a fully functioning UK wide State aid regime is desirable, and indeed necessary to ensure full and unfettered access to the single market, without agreeing to relinquish all statutory control over the State aid rules going forward to the UK Government. Consequently, Welsh Ministers do not plan to grant unilateral consent for this Statutory Instrument.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Jeremy Miles'.

Jeremy Miles AM

Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister

**GWEINIDOGION Y DU SY'N GWEITHIO MEWN MEYSYDD
DATGANOLEDIG**

81 - Rheoliadau Cymorth Gwladwriaethol (Ymadael â'r UE) 2019

Gosodwyd yn Senedd y DU: 21 Ionawr 2019

Sifftio

A fydd angen eu sifftio yn Senedd y DU?	Na fydd
Gweithdrefn:	Cadarnhaol
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Tŷ'r Cyffredin	Amh.
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	21/01/2019
Dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	Amh.
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur 18
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Ddim yn ofynnol

Gweithdrefn graffu

Canlyniad y broses sifftio	Amh.
Y weithdrefn	Cadarnhaol
Dyddiad trafod gan y Cyd-bwyllgor ar Offerynnau Statudol	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Tŷ'r Cyffredin	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	Ddim yn hysbys

Sylwadau

Bwriedir i'r Rheoliadau hyn gael eu gwneud gan Lywodraeth y DU yn unol ag adran 8(1) a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

Maent yn addasu'r hawliau, y pwerau, yr atebolrwydd, y rhwymedigaethau, y cyfyngiadau, y rhwymedïau a'r gweithdrefnau a ddargedwir gan adran 4 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (y Ddeddf) sy'n ymwneud â chymorth gwladwriaethol (hawliau cymorth gwladwriaethol) ac yn diwygio ac yn ailddatgan y weithdrefn sy'n yn berthnasol i achosion o gymorth Gwladwriaethol.

Yr effaith gyffredinol yw trosi cyfundrefn cymorth gwladwriaethol yr UE fel y'i nodir yn Erthyglau 107 a 108 o'r Cytuniad ar Weithrediad yr Undeb Ewropeaidd (TFEU) i gyfraith ddomestig a rhoddi i'r Awdurdod

Cystadleuaeth a Marchnadoedd (CMA) y swyddogaeth o reoleiddio'r gyfundrefn yn lle Comisiwn yr UE (Comisiwn).

Yn ei lythyr at Gadeirydd y Pwyllgor dyddiedig 25 Ionawr 2019, dywedodd y Cwnsler Cyffredinol:

“The Welsh Government’s position is that State aid is a devolved matter and not a reserved matter under any heading of the Reserved Matters Schedule in the Government of Wales Act 2006. However, the UK Government do not consider it as such (as was noted in the Intergovernmental Agreement) and therefore they have not requested Welsh Ministerial consent). The Welsh Government has requested from the UK Government, an explanation of their legal position but there has been no response.”

O gofio effaith arwyddocaol y Rheoliadau hyn, efallai y bydd yr Aelodau am ystyried ysgrifennu at y Pwyllgor Craffu ar Is-ddeddfwriaeth yn Nhŷ'r Arglwyddi i wneud sylwadau yn cymeradwyo dadleuon y Cwnsler Cyffredinol. Efallai y bydd hefyd am dynnu sylw Pwyllgor Cyfansoddiad y Tŷ hwnnw at y mater hwn.

Mae'r Cynghorwyr Cyfreithiol yn gwneud y sylwadau a ganlyn mewn perthynas â datganiad Llywodraeth Cymru dyddiedig 25 Ionawr 2019 ynghylch effaith y Rheoliadau hyn:

Mae'r Pwyllgor hwn yn croesawu'r dadansoddiad manwl, ac yn cymeradwyo'r dull hwn i'r Llywodraeth. Mae'n hwyluso gwaith y Pwyllgor a dealltwriaeth yr Aelodau pan fo'r datganiad yn cynnwys esboniad llawn o safbwynt Llywodraeth Cymru.

Mae llythyr a datganiad y Cwnsler Cyffredinol, a chynnwys y Memorandwm Esboniadol i'r Rheoliadau hyn, yn cadarnhau eu heffaith. Mae'r llythyr a'r datganiad hefyd yn egluro i ba raddau y byddai'r Rheoliadau hyn yn deddfu polisi newydd mewn meysydd datganoledig.

Mae'r Cynghorwyr Cyfreithiol yn ystyried bod materion arwyddocaol yn codi o dan baragraff 8 o'r Memorandwm ar Fil yr Undeb Ewropeaidd (Ymadael) a Sefydlu Fframweithiau Cyffredin mewn perthynas â'r Rheoliadau hyn. Mae'r paragraff hwnnw'n datgan:

“Under this agreement, the UK Government has committed to ensure that clause 11 regulations will not affect the operation of the Sewel convention and that related practices and conventions in relation to future primary legislation, including legislation giving effect to common frameworks, will continue to apply. Accordingly, those established practices and conventions will operate as if clause 11 regulations had not been made.”

Mae llythyr a datganiad y Cwnsler Cyffredinol yn dangos bod swyddogaethau yn yr achos hwn yn cael eu trosglwyddo i awdurdod cyhoeddus nas datganolwyd, a hynny mewn ffordd sy'n effeithio ar

gymhwysedd deddfwriaethol y Cynulliad heb ofyn am gydsyniad y Cynulliad. Ymddengys fod hynny'n achos clir o dorri amodau paragraff 8.

Gan na osodwyd memorandwm cydsyniad, ni ellir cyflwyno cynnig cydsyniad o dan Reol Sefydlog 30A.10 mewn perthynas â'r Rheoliadau hyn.



DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL Rheoliadau Caffael Cyhoeddus (Diwygio) (Ymadael â'r UE) 2019
DYDDIAD 25 Ionawar 2018
GAN Rebecca Evans AC, Y Gweinidog Cyllid a'r Trefnydd

Rheoliadau Caffael Cyhoeddus (Diwygio) (Ymadael â'r UE) 2019

Y Gyfraith sy'n cael ei diwygio

- Deddf Awdurdod Llundain Fwyaf 1999
- Deddf Cydraddoldeb 2010
- Deddf Gwasanaethau Cyhoeddus (Gwerth Cymdeithasol) 2012
- Rheoliadau Contractau Cyhoeddus 2015
- Rheoliadau Contractau Consesiwn 2016
- Rheoliadau Contractau Cyfleustodau 2016
- Rheoliadau Contractau Cyhoeddus 2006
- Rheoliadau Contractau Cyfleustodau 2006
- Rheoliadau Taliadau Gwasanaeth (Gofynion Ymgynghori) (Lloegr) 2003
- Rheoliadau Darparu Gwasanaethau 2009
- Rheoliadau'r Diwydiant Dŵr (Prosiectau Seilwaith Penodedig) (Ymgymrwyr yn Lloegr) 2013
- Rheoliad 2195/2002 Senedd Ewrop a'r Cyngor ar yr Eirfa Gaffael Gyffredin
- Penderfyniad gan y Comisiwn 2006/211/EC
- Penderfyniad gan y Comisiwn 2007/141/EC
- Penderfyniad gan y Comisiwn 2010/192/EU
- Rheoliad Gweithredu gan y Comisiwn (EU) Rhif 2015/1986
- Adran 155(2) a (3) o Ddeddf Cydraddoldeb 2010

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

Mae'r OS yn cynnwys darpariaethau sy'n ei gwneud hi'n bosibl i Weinidog Swyddfa'r Cabinet arfer swyddogaethau. Mae angen caniatâd ymlaen llaw gan Weinidogion Cymru ar gyfer rhai ohonynt, a hynny mewn perthynas ag Awdurdodau Cymreig Datganoledig. Mae'r OS hefyd yn cynnwys darpariaethau sy'n ei gwneud hi'n bosibl i un ai Swyddfa'r Cabinet neu Weinidog Swyddfa'r Cabinet arfer swyddogaethau, a Gweinidogion Cymru ar yr un pryd mewn perthynas ag Awdurdodau Cymreig Datganoledig.

Byddai'r swyddogaethau hyn (Gweinidog Swyddfa'r Cabinet/Swyddfa'r Cabinet) yn gyfystyr â swyddogaethau un ai Weinidog y Goron neu awdurdod cyhoeddus (Swyddfa'r Cabinet) at ddibenion Atodlen 7B Deddf Llywodraeth Cymru 2006, a bydd hyn o'r herwydd yn ystyriaeth berthnasol o fewn cyd-destun cymhwysedd y Cynulliad i ddeddfu yn y meysydd hyn yn y dyfodol.

Diben y diwygiadau

Diben y diwygiadau yw cywiro diffygion mewn deddfwriaeth mewn perthynas â chaffael cyhoeddus (yn cynnwys diwygiadau canlyniadol i ddeddfwriaeth nad yw'n gysylltiedig â chaffael) sy'n deillio o'r ffaith bod y DU yn ymadael â'r Undeb Ewropeaidd. Mae'r Rheoliadau hefyd yn diwygio adran 155(2) a (3) o Ddeddf Cydraddoldeb 2010 er mwyn diffinio term drwy gyfeirio at Reoliadau Contractau Cyhoeddus 2015, yn hytrach na thrwy gyfeirio at y Gyfarwyddeb Sector Cyhoeddus. Mae'r diwygiad hwn yn un technegol ei natur ac mae'n ofynnol er mwyn i'r ddarpariaeth hon weithredu'n effeithiol ar ôl i'r DU ymadael â'r UE.

Mae'r OS a'r Memorandwm Esboniadol sy'n mynd gydag ef, ac sy'n nodi effaith pob un o'r diwygiadau, ar gael yma: <http://www.legislation.gov.uk/ukdsi/2019/9780111176788/contents>

Pam y rhoddwyd cydsyniad

Nid oes gwahaniaeth rhwng Llywodraeth Cymru a Llywodraeth y DU o ran y polisi ar gyfer y cywiriad. Felly, byddai gwneud OSau ar wahân yng Nghymru ac yn Lloegr yn arwain at ddyblygu gwaith a chymhlethdod diangen i'r llyfr statud. Mae cydsynio i OS ar draws Cymru a Lloegr a Gogledd Iwerddon yn sicrhau bod un fframwaith deddfwriaethol ar draws y DU sy'n hybu eglurder a hygyrchedd yn ystod y cyfnod hwn o newid. O dan yr amgylchiadau eithriadol hyn, mae Llywodraeth Cymru yn ystyried ei bod yn briodol i Lywodraeth y DU ddeddfu ar ein rhan yn yr achos hwn. Mae'r cyfarwyddebau hynny wedi'u trosi ar wahân, ac i raddau yn wahanol, i gyfraith yr Alban, felly bydd Gweinidogion yr Alban yn cyflwyno offeryn diwygio ar wahân mewn perthynas â rheoliadau cyfatebol yr Alban.

Mae Memorandwm Cydsyniad Offeryn Statudol hefyd wedi'i osod yn y Cynulliad Cenedlaethol mewn perthynas â'r diwygiadau i Ddeddf Cydraddoldeb 2010

**GWEINIDOGION Y DU SY'N GWEITHIO MEWN MEYSYDD
DATGANOLEDIG**

82 - Rheoliadau Caffael Cyhoeddus (Diwygio) (Ymadael â'r UE) 2019

Gosodwyd yn Senedd y DU: 18 Rhagfyr 2019

Sifftio

A fydd angen eu sifftio yn Senedd y DU?	Na fydd
Gweithdrefn:	Cadarnhaol
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Ewropeaidd Tŷ'r Cyffredin	19 Rhagfyr
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	8 Ionawr
Dyddiad y daw'r cyfnod sifftio i ben yn Senedd y DU	Amh.
Datganiad ysgrifenedig o dan Reol Sefydlog 30C:	Papur 21
Memorandwm Cydsyniad Offeryn Statudol o dan Reol Sefydlog 30A (oherwydd ei fod yn diwygio deddfwriaeth sylfaenol)	Ddim yn ofynnol

Gweithdrefn graffu

Canlyniad y broses sifftio	Amh.
Y weithdrefn	Cadarnhaol
Dyddiad trafod gan y Cyd-bwyllgor ar Offerynnau Statudol	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Offerynnau Statudol Tŷ'r Cyffredin	Ddim yn hysbys
Dyddiad trafod gan Bwyllgor Craffu ar Is-ddeddfwriaeth Tŷ'r Arglwyddi	Ddim yn hysbys

Sylwadau

Bwriedir i'r Rheoliadau hyn gael eu gwneud gan Lywodraeth y DU yn unol ag adran 8(1) a pharagraff 21 o Atodlen 7 i Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018.

Gwneir y Rheoliadau hyn er mwyn mynd i'r afael â diffygion yng nghyfraith yr UE a gedwir mewn perthynas â chaffael cyhoeddus sy'n deillio o ymadawiad y Deyrnas Unedig (DU) â'r Undeb Ewropeaidd (UE), i sicrhau bod y ddeddfwriaeth yn parhau i weithredu'n effeithiol ar ôl i'r DU ymael â'r UE.

Gosododd Llywodraeth Cymru ddatganiad ysgrifenedig o dan Reol Sefydlog 30C mewn perthynas â'r Rheoliadau hyn gan Lywodraeth y DU ar 18 Rhagfyr 2018. Mae'n ymddangos bod y datganiad wedi'i dynnu'n ôl a bod Llywodraeth Cymru bellach wedi gosod datganiad arall mewn perthynas â'r un Rheoliadau. Ni chawson ein hysbysu bod y datganiad gwreiddiol wedi'i dynnu'n ôl, felly rydym yn gofyn i

Lywodraeth Cymru roi gwybod pryd a pham y tynnwyd y datganiad yn ôl, a pham y cymerodd tan 25 Ionawr 2019 i osod datganiad cywir.

Mae fframwaith cyfreithiol yr UE ar gyfer rheoleiddio caffael cyhoeddus gan awdurdodau cyhoeddus a chyfleustodau yn cynnwys pecyn o gyfarwyddebau (Cyfarwyddebau Caffael yr Undeb Ewropeaidd) sy'n rheoli gweithdrefnau ar gyfer dyfarnu contractau cyhoeddus dros drothwyon ariannol penodedig i gyflenwyr gwaith, nwyddau a gwasanaethau. Eu nod yw sicrhau bod marchnad caffael cyhoeddus yr UE yn agored ac yn gystadleuol a bod cyflenwyr yn cael eu trin yn gyfartal ac yn deg.

Gweithredwyd Cyfarwyddebau Caffael yr UE ar gyfer Cymru, Lloegr a Gogledd Iwerddon gan Reoliadau Contractau Cyhoeddus 2015, Rheoliadau Contractau Cyfleustodau 2016 a Rheoliadau Contractau Consesiwn 2016 (y Rheoliadau). Mae'r offeryn hwn hefyd yn ymwneud â deddfwriaeth benodol yr UE sy'n uniongyrchol gymwys ym maes caffael cyhoeddus.

Mae'r offeryn hwn yn mynd i'r afael â diffygion yng nghyfraith yr UE a gedwir sy'n codi o ganlyniad i ymadael â'r UE. Mae'n diwygio neu'n dileu darpariaethau na ellir eu gweithredu, sy'n amhriodol neu a fyddai, fel arall, yn atal y ddeddfwriaeth rhag gweithredu'n effeithiol ar ôl y diwrnod ymadael, o fewn ystyr adran 8 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018. Er enghraifft, ni fyddai darpariaethau sy'n ymwneud â chyhoeddi hysbysiadau yng Nghyfnodolyn Swyddogol yr UE (OJEU) a chyflwyno adroddiadau i'r Comisiwn Ewropeaidd (y Comisiwn) bellach yn briodol oherwydd eu bod yn gosod gofynion ac yn rhoi swyddogaethau o ran endid o'r UE nad oes ganddynt swyddogaethau o'r fath bellach mewn perthynas â'r DU ar ôl ymadael.

Mae'r Cynghorwyr Cyfreithiol yn gwneud y sylwadau a ganlyn mewn perthynas â datganiad Llywodraeth Cymru dyddiedig 25 Ionawr 2019 ynghylch effaith y Rheoliadau hyn:

- Mae'r datganiad yn rhestru'r ddeddfwriaeth sy'n cael ei diwygio gan y Rheoliadau ond nid yw'n nodi pa rai o bwerau deddfwriaethol y Cynulliad neu bwerau gweithredol Gweinidogion Cymru y mae'r offeryn hwn yn effeithio arnynt. Mae'r datganiad yn dweud bod y Rheoliadau yn galluogi swyddogaethau i gael eu harfer gan Swyddfa'r Cabinet mewn perthynas ag Awdurdodau Datganoledig Cymru, naill ai gyda chaniatâd Gweinidogion Cymru neu a arferir ar yr un pryd gyda Gweinidogion Cymru. Fodd bynnag, nid yw'r datganiad yn dweud a yw hyn yn ymwneud â phob swyddogaeth, boed y rheoliadau yn ailddatgan y trefniadau presennol neu a yw'r rhain yn

cynrychioli trefniadau newydd o ran sut y gweithredir swyddogaethau mewn perthynas ag Awdurdodau Datganoledig Cymru.

- Mae'r datganiad yn nodi goblygiadau'n gywir ar gyfer cymhwysedd y Cynulliad yn y dyfodol gan y byddai angen cydsyniad Gweinidog y Goron arnynt o dan Atodlen 7B i Ddeddf Llywodraeth Cymru 2006 i wneud unrhyw newidiadau yn y meysydd hyn. Fodd bynnag, os yw'r rhain yn drefniadau newydd, nid yw'n glir pam na wnaeth Llywodraeth Cymru osod SICM fel y gwnaeth mewn perthynas â newidiadau y mae'r rheoliadau hyn yn eu gwneud i Ddeddf Cydraddoldeb 2010.

-

Mae'r cynghorwyr cyfreithiol yn argymhell y dylid ceisio eglurhad ar y pwyntiau uchod er mwyn gallu craffu'n effeithiol ar y rheoliadau hyn.

Gan ei bod yn aneglur o ddatganiad Llywodraeth Cymru, dyddiedig 25 Ionawr beth fydd effaith bosibl y Rheoliadau ar gymhwysedd deddfwriaethol y Cynulliad a/neu gymhwysedd gweithredol Gweinidogion Cymru, nid yw'r Cynghorwyr Cyfreithiol wedi gallu asesu a oes unrhyw faterion arwyddocaol yn codi o dan baragraff 8 y Memorandwm ar Fil yr Undeb Ewropeaidd (Ymadael) a Sefydlu Fframweithiau Cyffredin mewn perthynas â'r Rheoliadau hyn.

Hyd nes daw eglurhad pellach gan Lywodraeth Cymru, nid yw'r Cynghorwyr Cyfreithiol wedi canfod unrhyw reswm cyfreithiol i geisio cynnig cydsyniad ar hyn o bryd o dan Reol Sefydlog 30A.10 mewn perthynas â'r Rheoliadau hyn.



Mick Antoniw AM
Chair
Constitutional and Legislative Affairs Committee
National Assembly for Wales
Cardiff Bay, CF99 1NA

25 January 2019

Dear Mick

Post-Brexit UK-EU interinstitutional relations, and the role of the devolved institutions

It was good to see you again at the meeting of the Interparliamentary Forum on Brexit on 17 January.

The House of Lords EU Select Committee, which I chair, is undertaking a piece of work on *Post-Brexit UK-EU interinstitutional relations*. This work is designed to examine how future UK-EU intergovernmental and interparliamentary mechanisms and dialogue will be conducted. An important component of this work is to consider the role that the devolved institutions (both at governmental and parliamentary level) should play in influencing and shaping this dialogue.

Given the continued uncertainty of the Brexit process, the Committee has decided not to launch a full-scale inquiry, but rather to engage in an information-gathering exercise with key stakeholders, which we intend to inform a report to be published before the scheduled date of UK withdrawal on 29 March 2019.

As part of this exercise, the Committee would like to take account of the views and perspectives of colleagues in the devolved legislatures. We would therefore like to invite your Committee to set out its views, in writing, on a number of key questions as set out below, as well as any other topical issues that aren't covered here. The list of questions is attached. In order to inform the Committee's forthcoming report, we would like to invite a response by **Friday 8 February?**

If you have any questions, please do not hesitate to get in touch. I have written in similar terms to the Chairs and Conveners of other relevant Committees in the Scottish Parliament and National Assembly for Wales. My officials are also in dialogue with officials in the Northern Ireland Assembly.

Yours sincerely,

Lord Boswell of Aynho
Chairman of the European Union Committee

LIST OF QUESTIONS

1. What is your assessment of the mechanisms set out in the Withdrawal Agreement and Political Declaration to govern UK-EU relations a) during the transition period; and b) after the end of the transition period, including at “summit, ministerial, technical and parliamentary level”?
 - a. How do you envisage the mechanisms, including the proposed Joint Committee structures, dispute resolution mechanisms and ‘high-level conference’, operating in practice?
 - b. How do the proposed mechanisms for UK-EU relations during the transition period, and in the post-transition period, relate to one another? What are the key similarities and differences?
 - c. Notwithstanding the House of Commons’ rejection of the Withdrawal Agreement and Political Declaration, how likely is it that the proposed structure will underpin future UK-EU relations in the event of a deal being reached?
2. How should the UK Parliament and the devolved legislatures seek to scrutinise the interinstitutional mechanisms, including the proposed dispute resolution mechanism, both during the transition period and post-transition? How, if at all, should the work of the UK Parliament and the devolved legislatures be coordinated in this regard?
3. What format should the proposed dialogue between the European Parliament and the UK Parliament take? Will this take the form of a ‘delegation’?
 - a. What role should the devolved legislatures play in this process?
 - b. How could such an inter-parliamentary body influence the negotiation and/or governance of the future relationship?
4. What principles should underpin future intergovernmental and interparliamentary bilateral relations with individual EU Member States? What role should the devolved institutions play in the maintenance of such relations?
5. What role should the devolved governments and legislatures play in ensuring effective governance and scrutiny of the UK-EU relationship?
6. What lessons can be learned, both positive and negative, from the EU’s relations with other third countries in its neighbourhood? What can the UK learn from other third countries in seeking to continue to exert influence in Brussels?
 - a. How should the UK’s representation to the European Union (UKREP) adapt to its new role as a third country representation?
 - b. Should the UK Parliament continue to maintain a presence in Brussels?
 - c. What presence should the devolved institutions have in Brussels?

Lesley Griffiths AC/AM
Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA(L)/LG/0076/19

Mike Hedges AM
Chair of Climate Change,
Environment and Rural Affairs
Committee

SeneddCCERA@assembly.wales

January 2019

Dear Mike

Thank you for your letter of 11 January, regarding the Committee's consideration of the Fisheries Bill Legislative Consent Memoranda, and seeking clarification on a number of points.

I have addressed your questions in turn and look forward to discussing the Bill further with the Committee on Thursday.

Question 1. *To what extent does the UK Bill include provisions that are additional to those necessary to establish a legislative UK Framework for fisheries post EU Exit? Which of these provisions could have been included in a future Welsh fisheries Bill?*

The Bill provides a comprehensive suite of fishery management powers for the UK, including a wide range of powers for the Welsh Ministers. For example, Schedule 4 provides Welsh Ministers with the power to create financial assistance schemes in relation to Wales and Schedule 7 provides powers to Welsh Ministers via amendments to the Marine and Coastal Access Act 2009 in relation to the exploitation of sea fisheries resources.

None of these provisions could have been included in a Welsh Fisheries Bill in their current form as the provisions have elements which apply in the Welsh zone beyond Wales for which the National Assembly for Wales currently has no legislative competence. Clause 39 of the Fisheries Bill provides for an extension of the Assembly's Legislative Competence to the offshore area of the Welsh zone.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Gohebiaeth.Lesley.Griffiths@llyw.cymru
Correspondence.Lesley.Griffiths@gov.wales

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

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

Tudalen y pecyn 111

Question 2. *Which of the powers for the Welsh Ministers were included at the request of the Welsh Government?*

Schedule 4 (Financial Assistance), schedule 6 part 2 (Power to make further provisions: devolved authorities) and schedule 7 (Powers relating to the exploitation of sea fisheries resources) were included in the Bill at the request of Welsh Government.

Further, clause 39 which provides for the extension of the National Assembly for Wales competence in relation to fisheries matters in the Welsh zone beyond Wales, was included at the request of Welsh Government.

Question 3. *What is the rationale for requesting these powers, particularly if the Welsh Government intends to introduce a Welsh fisheries Bill?*

As previously stated, the Assembly does not currently have legislative competence for the area of the Welsh zone which lies beyond Wales. As such these provisions could not have been included in their current form in a Welsh Bill. We are considering bringing forward a Welsh Bill (if necessary) once the Assembly competence applies to the whole of the Welsh zone. This Bill provides important powers for managing our fish stocks and marine environment as we exit the EU. Given the extension of the Assembly's legislative competence will not be guaranteed until the Fisheries Bill becomes law, it is considered prudent to pursue all necessary powers for the Welsh Ministers in the UK Fisheries Bill.

Question 4. *What are the implications for the Welsh Government and the fisheries sector if these powers are not included in the UK Bill?*

If these powers were not included in this UK Bill, Welsh Government would have a narrower range of powers to manage our marine environment and fish stocks than the other Fisheries Administrations. We would not be able to create a modern financial assistance scheme, if desired, which responds to wider considerations than just being for the purpose of the fishing industry. The Fisheries Bill also enables the Welsh Ministers to amend existing fisheries enactments and retained EU law. Without this power, we could be in a situation where other parts of the UK are able to amend the over arching legislation giving their fleets an advantage over Welsh vessels.

Finally it would hamper our ability to effectively manage our marine environment following EU exit.

Question 5. *Schedule 6 includes broad powers for Welsh Ministers to make provision for 'conservation' and 'fish industry' purposes. Why is it necessary to include these provisions in a UK Bill, rather than a future Welsh fisheries Bill which will be subject to the full Assembly scrutiny process?*

These powers will be necessary as we leave the EU, as such it was not feasible to bring forward an Assembly Bill in the timescales available, which would have allowed full Assembly scrutiny. Any Assembly Bill brought forward at this time could also only extend to Wales. The exercise of the powers in Schedule 6 is through Statutory Instrument, both negative and affirmative procedure dependent on the scope of the regulation. As such Assembly scrutiny will be necessary in exercising those powers.

Question 6. *How do the fisheries objectives in clause 1 differ from, and improve on those set out in Article 2 of the Common Fisheries Policy Regulations?*

The provisions contained in Clause 1 of the Bill broadly replicate those in Article 2 of the common fisheries policy, in a way which is operable within a UK legislative framework.

Question 7. *What consideration was given to including milestones and/or targets for achieving the fisheries objectives in the Bill, for example in relation to Maximum Sustainable Yield (as currently included in the CFP)? Will these be included elsewhere, for example, in a JFS?*

Provisions in relation to the Joint Fisheries Statement were developed by UK Government. Discussions in relation to the contents of the Joint Fisheries Statement are on-going and will be informed by the scrutiny of the Bill. It is understood that milestones you mention will be included in the Joint Fisheries Statement.

Question 8 *How will progress towards achieving the fisheries objectives be measured and monitored in Wales? Is there any intention to develop a common approach to measuring and monitoring progress across the UK?*

Discussions around the nature of the Joint Fisheries Statement are ongoing and will be informed by the scrutiny of the Bill and depend on the final provisions of the Act.

Question 9. *Can you explain in detail how the fisheries policy authorities will “act jointly” in relation to the JFS? How will the Fisheries Management Framework Agreement, referred to in the Supplementary LCM, inform this approach?*

The Joint Fisheries Statement will be prepared by officials from across the fisheries policy authorities. Part 1 of Schedule 1 to the Fisheries Bill sets out the procedures to be applied when preparing and publishing the Joint Fisheries Statement. As previously stated, the contents of the JFS are still under discussion. The final contents of the JFS will be informed by the scrutiny of the Bill, engagement with stakeholders, and scrutiny of the relevant legislatures in line with the final provisions of the Act.

The JFS will form the key part of the Fisheries Framework setting out the shared objectives of the UK fisheries policy authorities. This will be underpinned by a range of memoranda of understanding detailing how the policy authorities will work together. These will be supported by effective joint governance mechanisms and suitable dispute resolution mechanisms.

Question 10. *Can you clarify whether the fisheries policy authorities would be expected to consult appropriate legislatures on any revisions to a draft JFS arising from scrutiny of another appropriate legislature, before the final text of a JFS is published?*

The Bill currently does not make specific provision for this. However, I would expect the legislatures to be informed of any changes after the legislatures have considered the statement and, subject to the scale of the changes, we may wish to lay an amended statement for consideration.

Question 11. *While Schedule 1 provides for scrutiny of a JFS by the appropriate legislature before it is published, a JFS will not be subject to the approval of those legislatures. What consideration was given to including such provision?*

The provisions relating to schedule 1 were drafted by Parliamentary Council following instructions from UK Government. Welsh Ministers were not consulted on the instructions. I am not aware of what consideration UK Government gave to this specific point.

Question 12. *Can you explain how and to whom a statement under clause 6(2) will be made? Why is there no formal mechanism in the Bill to this effect?*

In the unlikely circumstances clause 6(2) is engaged in Wales I would expect to issue a Written Statement to the Assembly. Clause 6(2) was drafted by Parliamentary Council following instructions from UK Government. Welsh Ministers were not consulted on the instructions. I am not aware of what consideration UK Government gave to this specific point.

Question 13. *Can you clarify the purpose and intended effect of a SSFS as it relates to Wales?*

- *What are the reserved powers that the SSFS will apply to?*
- *Do you intend to provide comparable detailed objectives that would apply to Wales? If so, when and how?*

The purpose of the SSFS is to cover specific English issues, it would not extend to Wales unless reserved functions are included, for example, the overall setting of the UK's fishing opportunities following coastal state negotiations. I do not believe there is any need for these specific policies to be detailed in a separate statement. The policies relevant to Wales are expected to be included within the JFS as they contribute to the achievement of the fisheries objectives.

Question 14. *Can you clarify whether the Bill, as drafted, provides Wales (and the other devolved administrations) with a right to fishing opportunities? If not, why not?*

The Bill does not provide such a right to the devolved administrations. However, the distribution of fishing opportunities between the UK administrations is not dealt with through legislation but is dealt with administratively.

Question 15. *In terms of fishing quota, the benefit to Wales from the UK's exit from the EU will be marginal. Do you think this is acceptable? What discussion have you had with the UK Government in this regard?*

I want Welsh Fishermen to receive their fair share of fishing opportunities within Welsh waters. The Welsh Centre for Public Policy report '*Implications of Brexit for fishing opportunities in Wales*' clearly demonstrated this is not the case at the moment. However, without a change to the way fishing opportunities are allocated within the UK, this will not change. Any rebalancing of fishing opportunities between the UK and EU following our exit from the EU should be used to redress this imbalance. Discussions regarding the distribution of future fishing opportunities have yet to begin.

Question 16. *On what basis will fishing opportunities in Wales be distributed and what mechanism will be used?*

The basis under which we distribute fishing opportunities in Wales is currently set out in the UK fisheries quota management rules. Allocation of fishing opportunities in the future will be subject to consultation as we work with stakeholders to develop the future fisheries policy referred to in *Prosperity for All*.

Question 17. *Will the Fisheries Concordat need to be reconsidered in light of the provisions in the Bill? If so, in what way?*

The concordat will need to be reviewed in light of EU exit and the creation of a fisheries framework.

Question 18. *Can you clarify whether clause 20 relates to the distribution of fishing opportunities by the Secretary of State (or the MMO) to the UK's four nations, or to the distribution of fishing opportunities by the Secretary of State (or the MMO) to English fishing boats?*

Clause 20 relates to the distribution of fishing opportunities by the Secretary of State, this could be at the UK level or and English level. In relation to the MMO, clause 20 only applies to English fishing boats.

Question 19. *Can you outline your reasons for this? What will this mean in practice?*

During discussions regarding the content of the Bill, officials from the devolved administrations voiced a number of concerns about the inclusion of this provision in the bill. This included the appropriateness of a UK Bill setting allocation criteria for devolved decisions and the risk of an overlap with existing legislation.

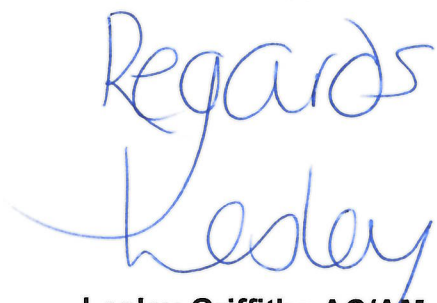
Our understanding is in practice, when allocating fishing opportunities, article 17 of the Common Fisheries Policy will not apply to Welsh Ministers. Article 17 sets a requirement to use transparent criteria for the allocation of fishing opportunities, including those of an environmental, social and economic nature. Without Article 17 of the CFP, Welsh Ministers decisions in this area will need to be guided by other legislation, including the Well-being of Future Generations Act.

Question 20. *What consideration did you give to requesting corresponding provisions for sale of fishing opportunities and discard prevention charging schemes for Wales?*

Given the nature and size of the fishing industry in Wales we do not face the same challenges with the landings obligation as other parts of the UK. However, it is my intention to bring forward a Welsh fisheries Bill, and solutions to the landings obligation will be considered appropriately as part of this process. I am still considering the provisions in relation to the sale of quota for a calendar year.

Timetable

The timetable of the Bill is a matter for Parliament and UK Government. I am not in a position to provide the Committee with a timetable for the Bill. I can confirm I will consider the representations made by both committees and, as appropriate, seek further discussions with UK Government to ensure the Bill meets Welsh needs. However, I am aware, with the prospect of the UK exiting the EU in March, the Bill is on an accelerated timetable and as a result further opportunities to influence the Bill may be scarce.



Lesley Griffiths AC/AM

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs

Lesley Griffiths AC / AM
Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref LG/0068/19

Mick Antoniw AC
Cadeirydd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Cynulliad Cenedlaethol Cymru
Bae Caerdydd
CF99 1NA

SeneddCLA@cynulliad.cymru

Ionawr 2019

Annwyl Mick

Yn dilyn fy ymddangosiad yn eich cyfarfod pwyllgor ar 21 Ionawr, cynigiais eich diweddarau yn dilyn cyfarfod yr Uwch Grŵp Llywio diweddaraf ar y Môr a Physgodfeydd yr wythnos diwethaf, lle fu trafodaethau rhwng uwch swyddogion Llywodraeth Cymru gyda Defra a'r Gweinyddiaethau Datganoledig.

Yn y cyfarfod, trafododd swyddogion gymal 18 o Fesur Pysgodfeydd drafft y DU, ac rwyf wedi derbyn cadarnhad eu bod wedi cofrestru'r pryderon ynghylch y mater hwn ac wedi gofyn i DEFRA ystyried ac ymateb, gan gymryd i ystyriaeth yr egwyddorion a'r arferion rhynglywodraethol presennol ar gydweithredu.

In gywir
Lesley

Lesley Griffiths AC / AM

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Gohebiaeth.Lesley.Griffiths@llyw.cymru
Correspondence.Lesley.Griffiths@gov.wales

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

Tudalen y pecyn 117

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

5. Memoranda Cydsyniad Deddfwriaethol ar

Bysgodfeydd y DU: Sesiwn dystiolaeth

5. Legislative Consent Memoranda on the UK Fisheries: Evidence session



Mick Antoniw AM 14:44:50

Video

So, the Constitutional and Legislative Affairs Committee reconvened. I welcome the Cabinet Secretary to this meeting to give evidence in respect of the Fisheries Bill. So, I welcome you and your officials, Graham Rees and Tamsin Brown. Did you want to make any opening comments or are you happy for us to go straight into questions? [26](#)

14:45



Lesley Griffiths AM 14:45:11

Video

I'm very happy to go straight into questions, Chair. [27](#)



Mick Antoniw AM 14:45:13

Video

Okay. Just a couple of opening questions from myself, which are why you consider the Bill and the provisions within it necessary—if you could perhaps explain why. [28](#)



Lesley Griffiths AM 14:45:23

Video

Thank you. So, the Bill as far as it relates to Wales is absolutely necessary for us to be able to manage our fisheries and our marine environment appropriately when we exit the EU. Obviously, once the UK leaves the European Union we will become an independent coastal state, subject to international laws and objectives, and the responsibility will require a much wider range of tools in order for the four administrations and the UK to work to collectively meet the requirements that are required in those international obligations. Also, the way that we share out the funding, so—. It's very different to agricultural funding, obviously—we don't fund our fishers in the way we fund our farmers—but that European Maritime and Fisheries Fund funding is used in a variety of ways that we will have to do ourselves after. [29](#)



Mick Antoniw AM 14:46:13

Video

Thank you for that. In the preparation of the Bill—as you know, there have been issues in terms of engagement between Welsh Government and the UK Government, for example, on the Agriculture Bill and other pieces of legislation. This is a much more detailed Bill. I wonder if you consider that Welsh Government has been adequately engaged within the construction of this Bill. And, perhaps, what might have been different in the construction of this as opposed to other legislation? [30](#)



Lesley Griffiths AM 14:46:39

Video

I think it's probably safe to say we didn't get off to the best start. Certainly, we weren't involved in the drafting of the Bill. However, as soon as the Bill did come forward, we had then extensive engagement, particularly at an official level, but also at a ministerial level. So, Members will be aware I have regular quadrilateral meetings with the Secretary of State for the Department for Environment, Food and Rural Affairs and my Scottish counterparts, and, obviously, Northern Ireland officials. So, I think the level of engagement was very good—much quicker than the Agriculture Bill; I think we learned lessons there. So, I think it's really important, from our perspective, that the Bill meets the Welsh needs, and that—. I think I'm much happier with the engagement in relation to this Bill. You've just mentioned it's much more—. It is a detailed Bill. It's much more detailed than the UK agri Bill. And I think we've also—. Although I didn't have as many red lines with this Bill as I did with the Agriculture Bill, I think we've been able to be much more influential and we've been able to bring forward changes to the Bill much easier than the previous one. 31



Mick Antoniw AM 14:47:45

Video

Okay, thank you for that. We've got quite a number of questions, so I'll move on through them fairly swiftly. Mandy Jones. 32



Mandy Jones AM 14:47:51

Video

Why have you not made a statement about this Bill as you did with the Agriculture Bill? 33



Lesley Griffiths AM 14:47:55

Video

I think because, again, they're two very different Bills. They're quite often compared—and I've just done the same thing myself. They're quite often conflated and compared in a way that they shouldn't be because, again, they're very different. Agriculture's very different to fisheries management, so I don't think we can compare them. So, I think we're in a very different space with this Bill, which is why I haven't made a statement as yet. And I think, because—and this sounds really obvious—the four countries share the same fish, we are much keener to work together to find a solution and to get the right framework in place. [34](#)



Mandy Jones AM 14:48:29

Video

But you are going to do that in the future.[35](#)



Lesley Griffiths AM 14:48:30

Video

Yes.[36](#)



Mick Antoniw AM 14:48:31

Video

Okay. Dawn Bowden. [37](#)



Dawn Bowden AM 14:48:32

Video

Yes, thank you, Chair. Just a couple of questions on the common frameworks and the provisions of the Bill that relate solely to the establishment of common frameworks and those that refer to the common frameworks that are devolved to the Assembly but are not within our legislative competence. Can you just explain the two, because one shouldn't be in there, it seems to me, but both are in? So, perhaps you could just explain that. [38](#)



Lesley Griffiths AM 14:49:04

Video

So, you're about the provisions in the Bill—[39](#)



Dawn Bowden AM 14:49:06

Video

The provisions, yes. So, the provisions in the Bill: we've got one area that relates solely to the establishment of the common frameworks. So, I just wanted to know a bit about that, but then whether there were any provisions in the Bill that don't relate to the common frameworks but are within our legislative competence. [40](#)



Lesley Griffiths AM 14:49:21

Video

Okay. So, let's take the latter one first. So, there are several clauses in Schedule 1 that are around the joint fisheries committee—I think it's clauses 1 to 6—then we've obviously got the common licensing powers around the licences of vessels, which are in Schedule 3, and then Schedule 6 has got several clauses. And then Schedule 4 is in relation to the financial powers that I referred to before and Schedule 7 is around amendments to the Marine and Coastal Access Act 2009. And, if you're asking why some of them are in the Bill, it's because—and it's an amendment that we've been able to secure now around Wales and the Welsh zone. So, the 12 nautical miles are the Wales zone, and then we've got—. We didn't have, or the Assembly didn't have, legislative competence beyond the Wales zone and that was an inequity with Scotland, for instance. So, that's one of the amendments. I referred before to that we've secured some very important amendments, and that was one of them.[41](#)

14:50



Dawn Bowden AM 14:50:23

Video

Right. So, this is a matter of clarity, then.[42](#)



Lesley Griffiths AM 14:50:25

Video

Yes. So, we when we bring forward our own Welsh fisheries Bill, if we hadn't got that clause in, we wouldn't have been able to have the legislative competence in relation to that.[43](#)



Dawn Bowden AM 14:50:34

Video

Okay, that's fine. Okay, thank you, Chair.[44](#)



Mick Antoniw AM 14:50:36

Video

Okay. Suzy Davies.[45](#)



Suzy Davies AM 14:50:39

Video

Yes, thank you. If I understand correctly, you as Welsh Government asked for some delegated powers in this process. Can you tell us why they're necessary? Why are they not adequately explained in the legislative consent memoranda? And can you give us an example of the regulations you might expect to introduce by using the powers that you've asked for?[46](#)



Lesley Griffiths AM 14:50:56

Video

So, at our request, we had some powers in relation to financial assistance and I gave an example of why we need to have those powers. We also amended the Marine and Coastal Access Act 2009. That was to provide new powers to Welsh Ministers, again to enable for us to manage our fisheries post Brexit much more dynamically, if you like. And also, for nature conservation reasons, it was really important to have that. And, again, I go back to Wales and the Welsh zone—if we hadn't got the powers now, when the time comes for us to have our Welsh fisheries Bill, we wouldn't have been able to legislate in that area.⁴⁷



Suzy Davies AM 14:51:40

Video

Do any of these powers give you access to new policy that—? Is this just a like-for-like equivalent or have you got the opportunity here to introduce new policy by using the powers that you've asked for? ⁴⁸



Lesley Griffiths AM 14:51:52

Video

I think it's probably like-for-like and it's to enable us to be able to manage our fisheries in a much more meaningful way. We will have to, obviously, amend existing fisheries enactments. We may have to change EU legislation—so, retained EU legislation. We could only do that through primary legislation. So—⁴⁹



Suzy Davies AM 14:52:20

Video

Sorry to interrupt. Yes, I accept that—the operability of it—but it's just that, the powers as drafted, would they give you any openings, if you like, to introduce any new policy that wouldn't be consulted on?[50](#)



Lesley Griffiths AM 14:52:33

Video

That wouldn't be consulted—. I suppose it would be able to—. No, I don't think new policy in that. It would enable us to deviate from EU legislation, wouldn't it, but I don't think it would enable us to do it without consultation.[51](#)



Suzy Davies AM 14:52:44

Video

Okay. It's just that I recognise that, in the explanatory memorandum we did get, the reason you want to introduce an LCM in the first place is for uniformity. So, as far as I can tell, the powers give you opportunities to deviate from uniformity and I just wanted to know what you might want to do—some specific examples of how you might use those powers, then. Basically, why can't we wait for a Wales fisheries Bill? What's so urgent? [52](#)



Lesley Griffiths AM 14:53:09

Video

Well, I go back to what I was saying about Wales and the Welsh zone, because, if we hadn't got those powers changed—[53](#)



Suzy Davies AM 14:53:16

Video

They're coming in now, though, aren't they?[54](#)



Lesley Griffiths AM 14:53:17

Video

Yes, but only because we had the amendment.[55](#)



Suzy Davies AM 14:53:20

Video

Oh, yes, and that's great for that, but there are still additional powers to that. I'm just wondering how you're intending to use them, really, particularly as you asked for them.[56](#)



Lesley Griffiths AM 14:53:27

Video

Graham.[57](#)

Graham Rees 14:53:28

Video

The issue that we're also dealing with is the risk of leaving the EU at the end of March, and so we need a toolset of powers to be able to manage fisheries and the marine environment from that point onwards. What these do in effect—so, the changes to the Marine and Coastal Access Act just change existing powers that are there at the moment to make them more flexible. The changes to the financial instrument change existing powers that are there to make them more broadly applicable, just to deal with the change in circumstances that we're likely to face as we exit the European Union.⁵⁸



Suzy Davies AM 14:54:05

Video

Okay. So, they're not quite like-for-like, then, because you've just mentioned it twice—changes.⁵⁹

Graham Rees 14:54:09

Video

They're enhancements to our existing powers. They're not changes to policy; they're enhancements.⁶⁰



Suzy Davies AM 14:54:14

Video

Oh, enhancements. Well, again, we'd be quite interested in hearing about enhanced powers, because that's not what we would have been expecting. What would you use enhanced powers for? And why aren't they in the LCM, on why you'd need enhanced powers?⁶¹

Graham Rees 14:54:28

Video

At the moment, for example, in the Marine and Coastal Access Act, the permitting powers that are there at the moment would require us to remake legislation every time we amended a permit. As we're dealing with a lot of unknown circumstances as we exit the European Union, the ability

to be able to adapt those permits means that it would be a more fit-for-purpose way of controlling fisheries.⁶²



Suzy Davies AM 14:54:53

Video

And you couldn't wait for a Wales fisheries Bill for that? ⁶³

Graham Rees 14:54:56

Video

As the Minister's already—⁶⁴



Suzy Davies AM 14:54:57

Video

It may just be timing.⁶⁵



Lesley Griffiths AM 14:54:58

Video

Well, we might have to bring regulations in very quickly. It could be the first week of April, so—⁶⁶

14:55



Suzy Davies AM 14:55:03

Video

You've answered my second question that I don't need to ask.[67](#)



Lesley Griffiths AM 14:55:05

Video

But, you know, we could have to make those changes incredibly quickly, so we would need to have the powers there. Obviously, you know the legislative programme that we currently have during this term—it's very full, so we're going to have to look at that, obviously, to bring it through the fisheries policy.[68](#)



Suzy Davies AM 14:55:24

Video

Okay, but yes, enhanced powers. Thank you, Chair.[69](#)



Dai Lloyd AM 14:55:30

Video

Mae'r rhan fwyaf o fy nghwestiynau i wedi cael eu hateb eisoes gan y Gweinidog. A allaf i jest gofyn un? Ai'r bwriad ydy i'r pwerau yn y Bil fod yn bwerau dros dro yn unig? Os nad y bwriad oedd iddyn nhw fod yn dros dro, pam nad yw'r Bil yn cynnwys cymal machlud, felly, os oedd disgwyl iddyn nhw fod yn hirdymor?[70](#)

The majority of my questions have already been answered by the Minister. Can I just ask one question? Is it the intention that the powers in the Bill should be temporary in nature? If it wasn't

the intention for them to be temporary in nature, then why doesn't the Bill contain a sunset provision, if they're expected to be longer term in nature?



Lesley Griffiths AM 14:55:54

Video

Yes, absolutely, they are temporary. I've always made it very clear that we expect to bring forward a Welsh fisheries policy. There's no sunset clause because we don't yet have fisheries built into our legislative programme, so that's the reason for that.⁷¹



Dai Lloyd AM 14:56:09

Video

lawn, diolch yn fawr.⁷²

Fine, thank you.



Mick Antoniw AM 14:56:16

Video

Okay. I'd just like to come on now to clause 18. The UK Government's own explanatory memorandum doesn't consider that clause 18 is a matter requiring consent. I was wondering if perhaps you would outline your position in that respect, particularly with regard to the legislative consent memorandum that's been laid, and, of course, subsequent discussions, because there has been an amendment laid to the Bill, I think in the Committee Stage, isn't it, that is obviously a result of that. So, it'd be helpful if you could outline, I suppose, the issues of consent that were of

concern, why they were of concern to you, what discussions you've had on them and how those have now been resolved, if they have been resolved.[73](#)



Lesley Griffiths AM 14:57:10

Video

They haven't fully been resolved. Basically, the UK Government doesn't share our view on this matter, so the discussions are ongoing. And, certainly, I've had these discussions at a ministerial level and, obviously, officials are continuing to have them. I absolutely recognise that the conduct of international obligations is reserved, but when you come, then, to implement those obligations, if they're in a devolved area, that's up to us. But, as I say, the UK Government doesn't really share the view on that.[74](#)

I think, myself, Scotland, Northern Ireland and the UK Government all agree that the Secretary of State needs to be able to set the top-level fishing opportunities in UK waters, but our concern is, I suppose, around the very broad way that the power is currently written. So, at the moment, as it stands now, the DEFRA Secretary of State could decide on quotas for scallops in Cardigan bay. So, he would be able to set that at the moment. Now, Michael Gove tells me he wouldn't do that; okay, that's fair enough, I can take that, but what about future UK Governments? So, it's really important. He could also decide on the number of days that the fisheries was open, for instance, so we don't accept that that is the case. So, those discussions are ongoing. I am hopeful that we will get an agreement in the next few weeks.[75](#)



Mick Antoniw AM 14:58:44

Video

Okay. Dai, you wanted to come in on this.[76](#)



Dai Lloyd AM 14:57:45

Video

Well, yes. The crux of this is that the implementation of international agreements in areas of devolved competence is not reserved, as you've said, and that seems to have been confirmed by the Supreme Court as regards the Scottish Government—their continuity Bill, which emphasised that. Yet, you're saying that the UK Government still does not accept that position.⁷⁷



Lesley Griffiths AM 14:59:07

Video

I think we're getting there. As I say, the discussions I've had—. I had a very brief discussion about this last Monday at the quadrilateral in London. I do think we're getting there. I don't know if Graham can add any more—I know you've got an official meeting this week. I don't know if you can add any more.⁷⁸

Graham Rees 14:59:21

Video

The issue hinges on the term 'international obligations' in the clause itself, which we feel is too broad. So, what we're seeking is some reassurance, maybe in the form of the mechanics of the inter-ministerial agreement that we've got in place, because this area does span reserved and devolved—some assurance that the National Assembly for Wales can be consulted and also provide a view on any changes that are brought forward that affect devolved administrations' powers.⁷⁹



Dai Lloyd AM 14:59:59

Video

Because this is the crux of it. And, are you minded, then, if you don't get the amendment that you're chasing, to withhold legislative competence in this matter?⁸⁰

15:00



Lesley Griffiths AM 15:00:06

Video

Certainly it's something that we're considering. I have red lines, and I think this, obviously, comes in that category. I think, as we work forward on the fisheries management framework, this is an area where officials know it is absolutely a priority that we get this right.⁸¹



Mick Antoniw AM 15:00:27

Video

Carwyn Jones.⁸²



Carwyn Jones AM 15:00:29

Video

Thank you. Just concentrating on clause 18, it appears to give the UK Secretary of State powers to set a UK quota—or quotas, I should say, or quatae if you're particularly concerned about Latin correctness. But that quota would be a UK quota. Is it then the intention that it would be subdivided into four different quotas for each of the UK nations? Now, on the face of clause 18, there's no provision—it's silent on it; there's no provision on it—but, from your perspective, would you want there to be a Welsh quota for all species, rather than there being a UK quota, within which we'd have to operate?⁸³



Lesley Griffiths AM 15:01:12

Video

We've been having those discussions, because I think one of the things we've been looking at is: if we get additional quota, would it then be for the Secretary of State to top-slice it? And certainly the initial discussions that we've been having—. From our perspective, I think we would prefer that to Scotland and Northern Ireland sort of pushing out those—you know, having fixed quotas or for them just to go to the largest vessels, for instance. So, those are discussions that we are currently thinking about.⁸⁴



Carwyn Jones AM 15:01:46

Video

Just on another point, this conflict between the implementation of international obligations and their agreement, which is a problem we know exists, presumably, if the UK Government had an agreement with another state or entity that a certain number of boats should be able to fish in UK waters, how would that be allocated within the four nations? I suppose there isn't an answer to that yet—⁸⁵



Lesley Griffiths AM 15:02:19

Video

There isn't.⁸⁶



Carwyn Jones AM 15:02:19

Video

—but that's one of the problems. And secondly, again the Bill is silent on this, but I suspect this is something for further discussion: even if, for example, the Welsh Government was obliged to let a certain number of foreign-owned vessels fish in Welsh waters, it would actually be possible to prevent boats from elsewhere in the UK from fishing in Welsh waters. Now, I'm not saying that we would do that, because our fisheries are very small, as you know. But certainly, in Scotland, which has a maritime area I think bigger than England, there is the possibility, I suppose, that Welsh fishing boats could be stopped from fishing in Scottish waters if the Scottish Government decided to take that view.⁸⁷



Lesley Griffiths AM 15:03:01

Video

Taking the first part of your question, we haven't got an answer to that yet, but obviously we are bringing forward a joint fisheries statement. We are also looking at getting some sort of inter-ministerial agreement in the way that we've had on the agricultural side for a long time. So, these are part of the discussions that we are having, but you're quite right that Scotland are very vociferous in these parts of the discussions, as you can imagine.⁸⁸



Mick Antoniw AM 15:03:29

Video

Can I pursue that particular point? On the international treaties point, what the Supreme Court said was that, 'Well, of course, it is a reserved matter for UK Government in terms of the treaties,

but the implementation of that in devolved areas remains a matter for the devolved Government.' Now, that's a very clear statement of that. It's very interesting to note that it was English MPs, I think during the Committee Stage, who were actually saying, 'We need a disputes procedure because Wales could just walk away et cetera,' and I was very interested to see the boot on the other foot, because for how many years have we been arguing for a disputes procedure? I'm just wondering, is that the issue of a specific—you referred to a memorandum—? I get very uneasy about the use of memoranda because of their weakness. But here, clearly, the law is on our side, the constitution is on our side. Isn't this an opportunity where we should actually be setting the precedent for a disputes procedure now in respect of this?⁸⁹



Lesley Griffiths AM 15:04:28

Video

I agree. I noticed the former First Minister throw his hands up in the air, because you're absolutely right—we've been pushing for this for a while, and this is why I think we will have an agreement on this, and that's why, whilst it's a red line, I am confident that I will be able to recommend the Bill—⁹⁰



Mick Antoniw AM 15:04:44

Video

Will it be one that should go into the legislation itself?⁹¹



Lesley Griffiths AM 15:04:48

Video

Certainly that's a discussion that we can have, and I'd be very happy to update the committee following the meeting this week, if that would be helpful.[92](#)



Mick Antoniw AM 15:04:55

Video

Suzy, you want to come in.[93](#)



Suzy Davies AM 15:04:56

Video

That was my question: do you foresee, or do you have something that you've got in mind as a draft amendment to pass on to parliamentary colleagues about what you want to see happen to clause 18, because I tend to agree that it needs a statutory 'what happens next' built in somehow?[94](#)

15:05

Graham Rees 15:05:13

Video

There haven't been any discussions about following a legislative approach for—. We have discussed dispute resolution in a fisheries context, but it's sort of wrapped up in the work of the joint fisheries statement, because the joint fisheries statement is how we come together, how we negotiate, how we respect the fact that Wales has the Well-being of Future Generations (Wales) Act 2015. So, our definition of sustainability is enshrined in legislation. So, the joint fisheries statement is to create that vehicle to respect both devolution and to enable us to bind ourselves together around some of these things. [95](#)



Suzy Davies AM 15:05:47

Video

Okay, so it's not a case where you can just simply put in a clause along the lines of, in this case, 'The UK Government commits to doing the divvying up via a particular mechanism'. [96](#)

Graham Rees 15:06:00

Video

It would be more appropriate for the joint fisheries statement, I would believe, largely because it needs to be fit for purpose in the future as well, and we're in an evolving position. [97](#)



Suzy Davies AM 15:06:10

Video

Okay, that's fine. Thank you. [98](#)



Mick Antoniw AM 15:06:12

Video

Just an add-on comment, of course, this has quite significant implications in other areas of international treaties—the trade Bill, for example, and others. So, I just make that point now. Dawn Bowden. [99](#)



Dawn Bowden AM 15:06:26

Video

Just on Schedule 6, which contains provision-conferring powers on Welsh Ministers, and conferred on the Secretary of State, by clauses 31 and 32. So, are those broad powers—? How is it your intention to use those particular powers, if that's not already been covered by Suzy's questions earlier? [100](#)



Lesley Griffiths AM 15:06:47

Video

These are very important powers. They're very powerful. I think this is probably a level of power that we haven't had before. They're really important so that we can amend and change the EU legislation that's retained without seeking primary legislation. As I said, we may need to deviate from EU legislation, so this would allow us to do so. It may help with implementing new international obligations. We'll need to keep pace with EU legislation, because they could—. Well, I won't say they could—legislation is always evolving, obviously, within the EU also. [101](#) You'll be aware of the significant level of statutory instruments that are being made by Welsh Ministers at the moment; we had a very interesting debate in the Chamber last week with Suzy's motion. But also, the powers are necessary for us to be able to manage fish stocks and, obviously, the marine environment in the way that we want to in Wales. Graham just referred to, obviously, the FG Act. And I go back to what I was saying, I think it was in answer to Suzy before, in that we may need to make changes as early as the first week of April. So, we need to make sure that we've got these powers. [102](#)



Dawn Bowden AM 15:08:01

Video

Of course, similar powers are conferred on Northern Ireland and Scotland as well, so that will give the opportunity for discussions nation by nation, presumably, in that sense. [103](#)



Lesley Griffiths AM 15:08:09

Video

Yes. [104](#)



Dawn Bowden AM 15:08:10

Video

Right, that's fine. Just a final question from me, Chair, if I might. It's just around the Marine and Coastal Access Act 2009 and whether there's been any progress on the discussions there around the—if I can find it; what was it you were talking to them about? So, it allows you to manage fisheries in a much more flexible way. [105](#)



Lesley Griffiths AM 15:08:32

Video

The permits. So, I think this has been a long-standing issue and, certainly since I've been in post, it's something that stakeholders have wanted to see—so, that ability to be able to reissue a permit without having to have legislation, so having that flexibility to be able to do that. Again, we've had some significant dialogue, really, with the UK Government around this issue, and I do expect to see further amendments coming forward. [106](#)



Dawn Bowden AM 15:09:00

Video

So, they're accepting of the point, are they? [107](#)



Lesley Griffiths AM 15:09:01

Video

Yes, absolutely, they're accepting of this point, and I think these further amendments are something that Graham will be discussing on Wednesday at the officials' meeting. But, yes, I think they absolutely accept that this is an area that we will have, and if we do get these further amendments, obviously, Chair, I will lay a further supplementary LCM. [108](#)



Mick Antoniw AM 15:09:22

Video

Okay. Carwyn Jones. [109](#)



Carwyn Jones AM 15:09:24

Video

Much of what I wanted to raise has been dealt with. In terms of clause 39 of the Bill, I very much welcome that to get the legislative and executive competence aligned. That's hugely important. As far as—. We've mentioned clause 18, but is there anything else in the Bill that causes you concern? If, for example, clause 18 was to be resolved satisfactorily, do you think then you'd be in a position to recommend an LCM to the Assembly? [110](#)



Lesley Griffiths AM 15:09:56

Video

Yes. My big red line—and I think that was following discussions with you, really—was about Wales and the Welsh zone. I think that was really important, and for the Assembly as well, because it is really important that the National Assembly's powers were recognised in the way they were. So, I think once clause 18 is sorted, that will be all the red lines ticked off, and I will then be able to recommend. But obviously we've got the amendments coming through, we've got the Lords Committee Stage. I understand from a discussion I had with Michael Gove last Monday they are working to a much more accelerated timetable now, particularly with the threat of no deal. So, I'm very hopeful that will—that the Lords Committee Stage will be in the not-too-distant future and I'll be able to bring forward the supplementary LCM and then ask for the Assembly's approval. [111](#)

15:10



Mick Antoniw AM 15:10:47

Video

Okay. Mandy Jones. [112](#)



Mandy Jones AM 15:10:49

Video

I think one of my questions has already been covered, but how will you ensure that the provisions in the Bill and the subordinate legislation under it are accessible to stakeholders and the wider public?[113](#)



Lesley Griffiths AM 15:11:03

Video

Obviously, all UK Government legislation is widely available on their website, and in regard to subordinate legislation, we will make sure that any regulations that we bring forward will be accessible and transparent in the way we always do.[114](#)



Mandy Jones AM 15:11:16

Video

Thank you.[115](#)



Mick Antoniw AM 15:11:19

Video

Okay. Can I come back just to one area? I think there was something I wanted to cover in respect of questions. The Bill permits the Secretary of State to act in devolved areas with the consent of the devolved administrations, and I was just wondering if you could explain why this is the case, and the rationale for the approach, which doesn't seem to be completely clear from the legislative consent memorandum or the supplementary. What plans do you have for notifying the Assembly of any circumstances where consent is given?¹¹⁶



Lesley Griffiths AM 15:11:53

Video

So, I thought it was quite clear in the LCM and the supplementary LCM, but, obviously, we're laying down all the SIs, and I know there were some concerns from Members around that, but as I tried to say to Suzy last week, I'm doing the work, the team are doing the work, it's just a matter of Assembly time. I think we worked out that if we brought forward every SI, it would take six months of Tuesdays and Wednesdays, and doing nothing else, but I am aware that, obviously, there are concerns around scrutiny, but we're laying statements as soon as we're—I mean, I've done two SIs in the last 24 hours, but I think it is—. I do understand the concerns around affirmative and negative, but I will make sure that where there are areas where we do have concerns, Members are aware of them.¹¹⁷



Mick Antoniw AM 15:12:46

Video

Carwyn.¹¹⁸



Carwyn Jones AM 15:12:48

Video

Yes, just an issue, really, just to confirm something. Much has been made of what is claimed to be a 200-mile exclusive economic zone around the UK, which doesn't, by and large, exist. As I understand it, there is a line that goes out towards Rockall in the north-west of Scotland, where it does exist, and an arrow that goes out from the Isles of Scilly into the Bay of Biscay, where it also exists. But if we could just confirm that the exclusive economic zone only exists out to 200 miles if there is no other country in the way. [119](#)



Lesley Griffiths AM 15:13:23

Video

Yes. That's correct. [120](#)



Mick Antoniw AM 15:13:28

Video

Okay, I think those are the questions we wanted to go—. We very much appreciate your attendance today. You will get, of course, a transcript of the evidence, and obviously there'll be other considerations by other committees, which have already taken place in this respect, and we look forward to any further information as this Bill proceeds. Thank you for your attendance. [121](#)



Lesley Griffiths AM 15:13:49

Video

Thank you, Chair.

Mae cyfyngiadau ar y ddogfen hon

MEMORANDWM CYDSYNIAD DEDDFWRIAETHOL

Bil Lles Anifeiliaid (Anifeiliaid Gwasanaethu)

1. Gosodir y Memorandwm Cydsyniad Deddfwriaethol hwn o dan Reol Sefydlog ("RhS") 29.2. Mae Rheol Sefydlog 29 yn rhagnodi bod yn rhaid gosod Memorandwm Cydsyniad Deddfwriaethol, ac y ceir cyflwyno Cynnig Cydsyniad Deddfwriaethol, gerbron y Cynulliad Cenedlaethol os yw Bil gan Senedd y DU yn gwneud darpariaeth mewn perthynas â Chymru at ddiben sydd o fewn cymhwysedd deddfwriaethol y Cynulliad Cenedlaethol, neu at ddiben sy'n addasu'r cymhwysedd hwnnw.
2. Cyflwynwyd y Bil Lles Anifeiliaid (Anifeiliaid Gwasanaethu) ("y Bil") yn Nhŷ'r Cyffredin ar 13 Mehefin 2018. Gellir ei weld yma: <https://services.parliament.uk/bills/2017-19/animalwelfare-service-animals.html>.

Amcan(ion) y Polisi

3. Amcanion datganedig polisi Llywodraeth y DU yw cynyddu'r amddiffyniad i anifeiliaid gwasanaethu trwy ddiwygio adran 4 Deddf Lles Anifeiliaid 2006 ("Deddf 2006"). Mae'n mynd i'r afael â phryderon y cyhoedd ynghylch cymhwyso adran 4(3)(C)(ii) o Ddeddf 2006 i ymosodiadau ar anifeiliaid gwasanaethu lle gallai diffynnydd a gyhuddir o achosi dioddefaint diangen i anifail haeru ei fod yn amddiffyn ei hun a bod cyfiawnhad defnyddio grym corfforol yn erbyn anifail gwasanaethu gan achosi dioddefaint sydd ei angen iddo i bob pwrpas.

Crynodeb o'r Bil

4. Noddir y Bil gan Syr Oliver Heald QC AS.
5. Mae'r Bil yn diwygio adran 4 o Ddeddf 2006 er mwyn ei gwneud yn ofynnol i lys ddiystyru'r ystyriaeth yn adran 4(3)(c)(ii) o Ddeddf 2006 o dan amgylchiadau penodol wrth asesu a oedd dioddefaint yn ddiangen yng nghyd-destun achosi dioddefaint i anifail gwasanaethu.

Darpariaethau yn y Bil y ceisir cydsyniad ar eu cyfer

6. Cymal 1: Niweidio Anifail Gwasanaethu
Mae'r cymal yn darparu ar gyfer diystyru'r ystyriaeth os oedd yr anifail o dan reolaeth swyddog perthnasol adeg yr ymddygiad a'i fod yn cael ei ddefnyddio gan y swyddog bryd hynny wrth i'r swyddog gyflawni'i ddyletswydd, mewn ffordd a oedd yn rhesymol ym mhob amgylchiad ac nad y swyddog yw'r diffynnydd a gyhuddir o achosi'r dioddefaint diangen.
7. Mae'r cymal yn diffinio swyddog perthnasol fel cwnstabl; person (nad yw'n gwnstabl) sydd â phwerau cwnstabl neu sydd fel arfer wedi'i gyflogi at ddibenion plismona neu ei fod yn cael ei ddefnyddio i ddarparu

gwasanaethau at ddiben plismona; neu swyddog carchar yn unol ag ystyr Rhan 4 o Ddeddf Cyfiawnder Troseddol 1991. Mae swyddog carchar yn enghraifft o berson sydd â phwerau cwnstabl ac felly daw o dan adran newydd 3B(b).

8. Mae'r cymal yn rhoi pŵer i'r Ysgrifennydd Gwladol trwy reoliadau o dan y weithdrefn gadarnhaol newid y diffiniad o "swyddog perthnasol" ac mai dim ond person yng ngwasanaeth cyhoeddus y Goron gaiff ei enwi yn y diffiniad trwy unrhyw reoliadau o dan y cymal.
9. Cymal 2: Cwmpas, cychwyn a theitl byr
Mae'r cymal hwn yn darparu bod y Bil yn cwmpasu Cymru a Lloegr ac y daw'r Bil y rym ddeufis ar ôl y Cydsyniad Brenhinol. Mae'r cymal yn nodi hefyd teitl byr y Bil.
10. Mae angen cydsyniad ar gyfer hyn oherwydd ei fod o fewn cymhwysedd deddfwriaethol Cynulliad Cenedlaethol Cymru i'r graddau y mae'n ymwneud ag lechyd a Lles Anifeiliaid o dan baragraff 1 o Ran 1 o Atodlen 7 i Ddeddf Llywodraeth Cymru 2006.

Y rhesymau dros wneud y darpariaethau hyn ar gyfer Cymru yn y Bil Lles Anifeiliaid (Anifeiliaid Gwasanaethu)

11. Mae lles anifeiliaid yn flaenoriaeth i Lywodraeth Cymru a barn y Llywodraeth yw ei bod hi'n briodol delio â'r darpariaethau hyn yn y Bil hwn gan Senedd y DU am resymau amser ac ystyrllondeb. Mae darpariaethau'r Bil yn gyson ag amcanion polisi Llywodraeth Cymru ynghylch hyrwyddo lles anifeiliaid. Bydd mynd â'r Bil hwn yn ei flaen yn golygu y rhoddir yr un amddiffyniad i anifeiliaid gwasanaethu yng Nghymru yr un pryd â'r rheini yn Lloegr.

Goblygiadau ariannol

12. Ychydig iawn o gostau os o gwbl fydd y Bil hwn yn ei olygu i'r system cyfiawnder troseddol.

Casgliad

13. Mae Llywodraeth Cymru o'r farn ei bod yn briodol ymdrin â'r darpariaethau hyn yn y Bil hwn gan Senedd y DU gan mai dyma'r dull deddfwriaethol mwyaf priodol a chymesur o alluogi'r darpariaethau hyn i fod yn gymwys mewn perthynas â Chymru.

Lesley Griffiths AC
Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Ionawr 2019

Mae cyfyngiadau ar y ddogfen hon