



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2005 Rhif 1810 (Cy.141)

2005 No. 1810 (W.141)

PRIFFYRDD, CYMRU

HIGHWAYS, WALES

Rheoliadau Gwaith Stryd (Adennill Costau) (Cymru) 2005

The Street Works (Recovery of Costs) (Wales) Regulations 2005

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn yn rhagnodi'r sail dros gyfrifo costau neu dreuliau y caiff awdurdod, corff neu berson eu hadennill o dan Ran III o Ddeddf Ffyrdd Newydd a Gwaith Stryd 1991.

These Regulations prescribe the basis for calculating the costs or expenses which an authority, body or person may recover under Part III of the New Roads and Street Works Act 1991.

Mae Rhan III o'r Ddeddf honno yn cynnwys nifer o ddarpariaethau sy'n rhoi hawl i awdurdod, corff neu berson gyflawni gweithredoedd ac adennill oddi wrth bartïon eraill y costau neu'r treuliau sy'n dod o ymgymryd â'r gweithredoedd hynny. Er enghraifft, os ymddengys i awdurdod strydoedd bod ymgymwrwr wedi methu â chydymffurfio â'i ddyletswyddau i adfer stryd a bod y methiant hwnnw'n achosi perygl i'r sawl sy'n defnyddio'r stryd, caiff yr awdurdod wneud y gwaith y mae angen ei wneud a chaiff adennill oddi wrth yr ymgymwrwr y costau yr aeth iddynt yn rhesymol wrth wneud y gwaith hwn. Mae'r Rheoliadau yn rhagnodi mai'r costau fydd costau uniongyrchol a gorbenion, ac maent yn diffinio pa ddosbarthau ar gostau uniongyrchol y gellir eu hawlio. Maent hefyd yn rhagnodi sut y mae cyfrifo gorbenion.

Part III of that Act contains several provisions entitling an authority, body or person to take action and to recover the costs or expenses of taking that action from other parties. For example, if it appears to a street authority that a failure by an undertaker to comply with its duties to reinstate a street is causing danger to users of the street, the authority may carry out the necessary works and may recover from the undertaker the costs reasonably incurred by them in doing so. The Regulations prescribe that costs will comprise direct costs and overheads, and define what categories of direct costs may be claimed. They also prescribe how overheads are to be calculated.

Nid yw'r Rheoliadau yn gymwys i gostau na threuliau y mae modd eu hadennill o ran unrhyw weithred yr ymgymwrwr â hi o ran trwydded a roddwyd o dan adran 50 o'r Ddeddf.

The Regulations do not apply to costs or expenses recoverable in respect of any action undertaken in relation to a licence granted under section 50 of the Act.

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Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adrannau 96 a 104(1) o Ddeddf Ffyrdd Newydd a Gwaith Stryd 1991(1) ac sydd bellach yn arferadwy gan y Cynulliad Cenedlaethol o ran Cymru(2), drwy hyn yn gwneud y Rheoliadau a ganlyn:

The National Assembly for Wales, in exercise of the powers conferred upon the Secretary of State by sections 96 and 104(1) of the New Roads and Street Works Act 1991(1) and which are now exercisable by the National Assembly in relation to Wales(2), hereby makes the following Regulations:

Enwi, cychwyn a chymhwyso**Title, commencement and application**

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Gwaith Stryd (Adennill Costau) (Cymru) 2005 a deuant i rym ar 8 Gorffennaf 2005.

1.-(1) The title of these Regulations is the Street Works (Recovery of Costs) (Wales) Regulations 2005 and they come into force on 8 July 2005.

(2) Mae'r Rheoliadau hyn yn gymwys i Gymru.

(2) These Regulations apply to Wales.

Dehongli**Interpretation**

2. Yn y Rheoliadau hyn:

2. In these Regulations:

ystyr "canolfan gost" ("*cost centre*") yw uned o atebolrwydd ariannol adnabyddadwy o fewn cyfrifon rheoli hawlydd ac sy'n gyfrifol am weithgareddau penodol o fewn sefydliad hawlydd;

"the Act" ("*y Ddeddf*") means the New Roads and Street Works Act 1991;

ystyr "cost cyfalaf" ("*cost of capital*") yw cost y cyfalaf a gyfrifir drwy gyfeirio at y gyfradd enillion a ragnodir naill ai gan ddeddfwriaeth, neu gan y rheoleiddiwr perthnasol o ran gweithgareddau rheoleiddiedig yr hawlydd (p'un a yw'r gwaith am dâl yn un o'r gweithgareddau hynny ai peidio) neu, os na ragnodir cyfradd o'r fath, drwy gyfeirio at gyfradd sy'n ddau y cant yn uwch na chyfradd ddisgownt y sector cyhoeddus fel a bennir gan y Trysorlys o bryd i'w gilydd;

"chargeable job" ("*gwaith am dâl*") means an item of work, the costs of which are recoverable under the provisions of Part III of the Act;

"claimant" ("*hawlydd*") means an authority, body or person who is entitled to recover costs under Part III of the Act;

ystyr "costau" ("*costs*") yw costau neu dreuliau y cyfeirir atynt yn adran 96(1) o'r Ddeddf fel rhai y mae modd i awdurdod, corff neu berson eu

"costs" ("*costau*") means costs or expenses referred to in section 96(1) of the Act as being recoverable by an authority, body or person under Part III of the Act;

"cost centre" ("*canolfan gost*") means a unit of financial accountability identifiable within a claimant's management accounts and responsible

(1) 1991 p.22.

(2) Mae pwerau'r Ysgrifennydd Gwladol, i'r graddau y maent yn arferadwy o ran Cymru, wedi'u trosglwyddo i Gynulliad Cenedlaethol Cymru: gweler erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) ac Atodlen 1 iddo.

(1) 1991 c.22.

(2) The powers of the Secretary of State, insofar as exercisable in relation to Wales, have been transferred to the National Assembly for Wales: see article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

hadennill o dan Ran III o'r Ddeddf;

ystyr "costau uniongyrchol" ("*direct costs*") yw'r costau hynny a ddisgrifir yn rheoliad 5;

ystyr "y Ddeddf" ("*the Act*") yw Deddf Ffyrdd Newydd a Gwaith Stryd 1991;

ystyr "gorbenion" ("*overheads*") yw'r costau hynny a ddisgrifir yn rheoliad 6;

ystyr "gwaith am dâl" ("*chargeable job*") yw gwaith y mae modd adennill ei gostau o dan ddarpariaethau Rhan III o'r Ddeddf;

ystyr "gwasanaethau cymorth" ("*support services*") yw gwasanaethau a ddarperir oddi fewn i sefydliad er mwyn cynorthwyo gweithgareddau sy'n mynd i gostau uniongyrchol;

ystyr "gweithgareddau rheoleiddiedig" ("*regulated activities*") yw gweithgareddau a awdurdodir neu a reoleiddir gan drwydded ac a oruchwylir gan y rheoleiddiwr perthnasol;

ystyr "hawlydd" ("*claimant*") yw awdurdod, corff neu berson sydd â'r hawl i adennill costau o dan Ran III o'r Ddeddf;

ystyr "rheoleiddiwr perthnasol" ("*relevant regulator*") yw person, sy'n annibynnol ar yr hawlydd, ac sy'n gyfrifol am oruchwyllo gweithgareddau rheoleiddiedig yr hawlydd a sicrhau bod yr hawlydd yn cydymffurfio â thelerau'r drwydded sy'n awdurdodi'r gweithgareddau hynny; ac

ystyr "trwydded" ("*licence*") yw unrhyw ffurf ar awdurdodiad, caniatâd, neu benodiad sy'n awdurdodi'r hawlydd i gynnal gweithgareddau rheoleiddiedig.

Sail adennill

3. Y sail y mae symiau o gostau i'w cyfrifo arni yw'r sail a roddir yn narpariaethau canlynol y Rheoliadau hyn.

Costau

4.-(1) Y costau fydd costau uniongyrchol a gorbenion i'r graddau y mae'r costau uniongyrchol hynny a'r gorbenion hynny yn berthnasol i waith penodol am dâl a chyfrifir hwynt yn unol â'r polisïau ariannol a fabwysiedir gan yr hawlydd i ddatgan canlyniadau ariannol y canolfannau cost sy'n gyfrifol am y gwaith am dâl neu am ddarparu gwasanaethau cymorth i'r canolfannau hynny.

(2) Pan fo modd adennill costau yn unol â Rheoliadau Gwaith Stryd (Rhannu Costau Gwaith) (Cymru) 2005(1) ("Rheoliadau 2005") mae'r Rheoliadau hyn yn gymwys i'r graddau y mae'r

for specific activities within a claimant's organisation;

"cost of capital" ("*cost cyfalaf*") means the cost of capital calculated by reference to the rate of return which is prescribed either by legislation, or by the relevant regulator in respect of the claimant's regulated activities (whether or not the chargeable job is such an activity) or, if no such rate is prescribed, by reference to a rate which is two per cent above the public sector discount rate as set by the Treasury from time to time;

"direct costs" ("*costau uniongyrchol*") means those costs described in regulation 5;

"licence" ("*trwydded*") means any form of authorisation, permission, or appointment, by which the claimant is authorised to carry out regulated activities;

"overheads" ("*gorbenion*") means those costs described in regulation 6;

"regulated activities" ("*gweithgareddau rheoleiddiedig*") means activities which are authorised or regulated by a licence and supervised by the relevant regulator;

"relevant regulator" ("*rheoleiddiwr perthnasol*") means a person, independent of the claimant, charged with supervising the claimant's regulated activities and ensuring a claimant complies with the terms of the licence authorising those activities; and

"support services" ("*gwasanaethau cymorth*") means services provided from within an organisation in support of activities which incur direct costs.

Basis of recovery

3. The basis on which the amounts of costs are to be calculated is that set out in the following provisions of these Regulations.

Costs

4.-(1) The costs will comprise direct costs and overheads to the extent that such direct costs and overheads are relevant to a particular chargeable job and are calculated in accordance with the financial policies adopted by the claimant to state the financial results of the cost centres responsible for the chargeable job or for providing support services to such centres.

(2) Where costs are recoverable in pursuance of the Street Works (Sharing of Costs of Works) (Wales) Regulations 2005(1) ("the 2005 Regulations") these Regulations apply to the extent that the costs are

(1) O.S. 2005/.....

(1) S.I. 2005/.....

costau yn "gostau caniatadwy" fel a ddiffinnir yn rheoliad 2(2) o Reoliadau 2005.

(3) Bydd modd adennill y costau naill ai fel costau uniongyrchol o dan reoliad 5 neu fel gorbenion o dan reoliad 6, ond nid fel y ddau.

(4) Bydd y costau'n glir o unrhyw ddisgownt neu adaliad a ganiateir i'r hawlydd.

Costau Uniongyrchol

5. Mae costau uniongyrchol yn gostau yn unrhyw un o'r pum dosbarth a bennir isod-

- (a) cost staff (p'un a ydynt yn cael cyflog ai peidio) a gyflogir yn uniongyrchol gan yr hawlydd ac a gyfrifir yn unol â rheoliad 7;
- (b) y costau sy'n daladwy i gontractiwr y mae'r hawlydd yn ei gymryd ymlaen;
- (c) costau deunyddiau;
- (ch) cost hurio cyfarpar, peiriannau a cherbydau neu, pan fo'r cyfarpar, y peiriannau neu'r cerbydau yn cael eu lesio i'r hawlydd, y gost gyfatebol seiliedig ar raddfeydd perthnasol y farchnad; a
- (d) costau eraill sy'n berthnasol ac yn benodol briodoladwy i waith am dâl.

Gorbenion

6.-(1) Gorbenion fydd canran briodol o'r costau uniongyrchol y cyfeirir atynt yn rheoliad 5, wedi'u cyfrifo a'u cymhwyso ar wahân ar gyfer pob dosbarth ar y costau hynny.

(2) Ystyr canran briodol at ddibenion y rheoliad hwn yw'r ganran a gyfrifir drwy gymhwyso'r fformwla:

$$\begin{aligned} & (b/a \times 100) \text{ plws} \\ & (c/a \times 100) \text{ plws} \\ & (ch/a \times 100) \end{aligned}$$

pan fo:

a = cyfanswm costau uniongyrchol pob gwaith am dâl, a gwaith heblaw gwaith am dâl, y codir ar y ganolfan gost neu'r canolfannau cost amdano, a'r ganolfan gost honno neu'r canolfannau cost hynny yn gyfrifol am y gwaith am dâl yn ystod y cyfnod diweddaraf y mae cyfrifon cyhoeddedig ar gael ar ei gyfer;

"allowable costs" as defined in regulation 2(2) of the 2005 Regulations.

(3) The costs will be recoverable either as direct costs under regulation 5 or as overheads under regulation 6, but not both.

(4) The costs will be net of any discount or rebate allowed to the claimant.

Direct Costs

5. Direct costs are costs in any of the five categories specified below-

- (a) the cost of staff (whether salaried or non-salaried) employed directly by the claimant calculated in accordance with regulation 7;
- (b) the costs payable to a contractor engaged by the claimant;
- (c) the cost of materials;
- (d) the cost of hiring equipment, plant and vehicles or, where the equipment or plant is, or vehicles are, leased to the claimant, the equivalent cost based on relevant market rates; and
- (e) other costs which are relevant and specifically attributable to a chargeable job.

Overheads

6.-(1) Overheads will comprise an appropriate percentage of the direct costs referred to in regulation 5, calculated and applied separately for each category of those costs.

(2) An appropriate percentage for the purpose of this regulation means the percentage calculated by the application of the formula:

$$\begin{aligned} & (b/a \times 100) \text{ plus} \\ & (c/a \times 100) \text{ plus} \\ & (d/a \times 100) \end{aligned}$$

where:

a = the total direct costs of all chargeable jobs, and jobs other than chargeable jobs, charged to the cost centre or centres responsible for the chargeable job during the most recent period for which published accounts are available;

b = cost, yn ystod y cyfnod hwnnw, gwasanaethau cymorth a ddarperir o fewn y ganolfan gost neu'r canolfannau cost sy'n gyfrifol am y gwaith am dâl;

b = the cost in that period of support services provided within the cost centre or centres responsible for the chargeable job;

c = cost, yn ystod y cyfnod hwnnw, y gwasanaethau cymorth a ddarperir i'r ganolfan gost neu'r canolfannau cost sy'n gyfrifol am y gwaith am dâl gan ganolfannau cost eraill o fewn sefydliad yr hawlydd; a

c = the cost in that period of support services provided to the cost centre or centres responsible for the chargeable job by other cost centres within the claimant's organisation; and

ch = cost, yn ystod y cyfnod hwnnw, cyfalaf a dibrisiant asedau a ddefnyddir ynghyswllt costau uniongyrchol yr aeth y ganolfan gost neu'r canolfannau cost iddynt a'r ganolfan gost honno neu'r canolfannau cost hynny yn gyfrifol am y gwaith am dâl, neu gost yr aed iddi yn uniongyrchol neu'n anuniongyrchol wrth ddarparu gwasanaethau cymorth i'r ganolfan gost honno neu i'r canolfannau cost hynny.

d = the cost in that period of capital and of depreciation of assets used in connection with direct costs incurred by the cost centre or centres responsible for the chargeable job, or directly or indirectly in providing support services to such cost centre or centres.

Cyfrifo Costau Staff ac Oriau Cynhyrchiol

7.-(1) At ddibenion rheoliad 5(a), cyfrifir costau staff drwy gyfeirio at y gyfradd y cyflogir person arni fesul awr gan rannu amcangyfrif rhesymol o gost flynyddol cyflogi person ag oriau cynhyrchiol y person hwnnw yn ystod yr un cyfnod blynyddol.

(2) Ym mharagraff (1) uchod, ystyr "oriau cynhyrchiol" yw'r oriau hynny pryd yr amcangyfrifir yn rhesymol y bydd person wrthi'n gwneud gwaith am dâl neu waith o fath tebyg o fewn sefydliad yr hawlydd, ond nid yw'n cynnwys unrhyw gyfnodau o salwch, gwyliau, hyfforddiant neu absenoldeb arall.

Eithriadau

8. Nid yw'r Rheoliadau hyn yn gymwys i gostau na threuliau y mae modd eu hadennill o ran unrhyw weithred yr ymgymmerir â hi o ran trwydded o dan adran 50 o'r Ddeddf.

Calculation of Staff Costs and Productive Hours

7.-(1) For the purpose of regulation 5(a), staff costs will be calculated by reference to the hourly rate at which a person is employed by dividing the reasonably estimated annual cost of employing a person by that person's productive hours during the same annual period.

(2) In paragraph (1) above, "productive hours" means those hours during which it is reasonably estimated that a person will be engaged on a chargeable job or work of a similar kind within the claimant's organisation, but does not include any periods of sickness, holiday, training, or other absence.

Exclusions

8. These Regulations do not apply to costs or expenses recoverable in respect of any action undertaken in relation to a licence under section 50 of the Act.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(1)

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(1).

5 Gorffennaf 2005

5 July 2005

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

The Presiding Officer of the National Assembly

(1) 1998 p.38.

(1) 1998 c.38.

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