



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2007 Rhif 117 (Cy.8)

2007 No. 117 (W.8)

**DIOGELU'R AMGYLCHEDD,
CYMRU**

**ENVIRONMENTAL
PROTECTION, WALES**

Rheoliadau Niwsansau Statudol
(Darpariaethau Amrywiol) (Cymru)
2007

The Statutory Nuisances
(Miscellaneous Provisions) (Wales)
Regulations 2007

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Mae adran 101 o Ddeddf Cymdogaethau Glân a'r Amgylchedd 2005 (p.16) ("Deddf 2005") yn ychwanegu categori newydd o niwsans statudol at adran 79(1) o Ddeddf Diogelu'r Amgylchedd 1990 (p.43) ("Deddf 1990"), sef "any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance".

Section 101 of the Clean Neighbourhoods and Environment Act 2005 (c.16) ("the 2005 Act") adds a new category of statutory nuisance to section 79(1) of the Environmental Protection Act 1990 (c.43) ("the 1990 Act") comprising "any insects emanating from relevant industrial, trade or business premises and being prejudicial to health or a nuisance".

Mae adran 79(7C)(a) i (c) ac (e) o Ddeddf 1990 yn eithrio mathau penodol o dir o'r diffiniad o "relevant industrial, trade or business premises", ac effaith hynny yw na fydd unrhyw drychfilod sy'n dod o'r mangreoedd hynny ac sy'n niweidiol i iechyd neu'n niwsans, yn niwsans statudol at ddibenion y drefn o ran niwsans statudol yn Rhan 3 o Ddeddf 1990.

Section 79(7C)(a) to (c) and (e) of the 1990 Act excludes certain types of land from the definition of "relevant industrial, trade or business premises" with the effect that any insects emanating from such premises which are prejudicial to health or a nuisance, will not constitute a statutory nuisance for the purposes of the statutory nuisance regime in Part 3 of the 1990 Act.

O dan adran 79(7C)(d) o Ddeddf 1990, caiff Cynulliad Cenedlaethol Cymru ragnodi bod tir arall sy'n rhan o uned amaethyddol (ond nad yw eisoes wedi'i eithrio o dan adran 79(7C)(a) i (c)) yn cael ei eithrio o'r diffiniad o "relevant industrial, trade or business premises".

Under section 79(7C)(d) of the 1990 Act, the National Assembly for Wales may prescribe other land which forms part of an agricultural unit (but which is not already excluded under section 79(7C)(a) to (c)) to be excluded from the definition of "relevant industrial, trade or business premises".

Mae'r Rheoliadau hyn yn rhagnodi, at ddibenion adran 79(7C)(d) o Ddeddf 1990, dir y mae taliadau'n cael eu gwneud ar eu cyfer o dan unrhyw un o'r cynlluniau rheoli tir a ddisgrifir yn yr Atodlen i'r Rheoliadau fel na fydd trychfilod sy'n dod o'r tir hwnnw ac sy'n niweidiol i iechyd neu'n niwsans yn niwsans statudol at ddibenion Rhan 3 o Ddeddf 1990 (*rheoliad 2 a'r Atodlen*).

These Regulations prescribe, for the purposes of section 79(7C)(d) of the 1990 Act, land in respect of which payments are made under any of the land management schemes described in the Schedule to the Regulations so that insects emanating from such land which are prejudicial to health or a nuisance will not constitute a statutory nuisance for the purposes of Part 3 of the 1990 Act (*regulation 2 and the Schedule*).

Mae'r Rheoliadau hyn yn diwygio hefyd Reoliadau Niwsans Statudol (Apelau) 1995 (O.S. 1995/2644) ("Rheoliadau 1995").

Mae Rheoliadau 1995 (rheoliad 2(2)) yn nodi ar ba sail y caiff person ddibynnu pan fo'n apelio i lys ynadon o dan adran 80(3) o Ddeddf 1990 yn erbyn hysbysiad gostegu a gyflwynwyd i'r person hwnnw ynglŷn â niwsans statudol. O ran unrhyw un o'r niwsansau statudol a nodir yn adran 79(1)(a), (d), (e), (f) neu (g) o Ddeddf 1990, pan fo niwsans o'r fath wedi codi ar fangre ddiwydiannol, mangre fasnachol neu fangre busnes, y seiliau yw'r ffaith bod y moddion ymarferol gorau wedi'u defnyddio i atal y niwsans, neu i wrthweithio effeithiau'r niwsans hwnnw (gweler rheoliad 2(2)(e)(i) o Reoliadau 1995).

Mae Deddf 2005 (adrannau 101 i 103) yn ychwanegu dau niwsans statudol newydd at y rhai a restrir yn adran 79(1) o Ddeddf 1990. Y rhain yw (yn adran 79(1)(fa)) y niwsans trychfilod y mae darpariaeth wedi'i gwneud ar ei gyfer yn rheoliad 2 o'r Rheoliadau hyn (y niwsans trychfilod) ac (yn adran 79(1)(fb)) golau artiffisial a belydrir o fangre yn y fath fodd ag i fod yn niweidiol i iechyd neu'n niwsans (y niwsans golau artiffisial).

Mae'r diwygiadau a wneir gan y Rheoliadau hyn yn galluogi person, pan fo apêl yn cael ei gwneud i lys ynadon yn erbyn hysbysiad gostegu sy'n enwi naill ai niwsans trychfilod neu niwsans golau artiffisial, i ddibynnu ar y ffaith bod y moddion ymarferol gorau wedi'u defnyddio i ostegu, neu i wrthweithio effaith, niwsans o'r fath. Mae adran 79(1)(fa) o Ddeddf 1990 (y niwsans trychfilod) wedi'i hychwanegu at y rhestr o ddarpariaethau yn rheoliad 2(2)(e)(i) o Reoliadau 1995. Mae adran 79(1)(fb) o Ddeddf 1990 (y niwsans golau artiffisial) wedi'i gwneud yn destun rheoliad newydd yn Reoliadau 1995, sef Rheoliad 2(2)(e)(iv), sy'n darparu amddiffyniad y moddion ymarferol gorau fel sail dros apelio yn erbyn hysbysiad gostegu ynglŷn â'r niwsans hwn pan fo'r golau artiffisial yn cael ei belydru naill ai o fangre ddiwydiannol, mangre fasnachol neu fangre busnes, neu gan oleuadau sy'n cael eu defnyddio i oleuo cyfleuster chwaraeon perthnasol awyr-agored (*rheoliad 3*).

These Regulations also amend the Statutory Nuisance (Appeals) Regulations 1995 (S.I. 1995/2644) ("the 1995 Regulations").

The 1995 Regulations (regulation 2(2)) describe the grounds on which a person may rely when appealing to the magistrates' court under section 80(3) of the against an abatement notice served on that person in respect of a statutory nuisance. In respect of any of the statutory nuisances set out in section 79(1)(a), (d), (e), (f) or (g) of the 1990 Act, where such a nuisance arose on industrial, trade or business premises, the grounds are that the best practicable means were used to prevent, or to counteract the effects of the nuisance (see regulation 2(2)(e)(i) of the 1995 Regulations).

The 2005 Act (sections 101 to 103) adds two new statutory nuisances to those listed in section 79(1) of the 1990 Act. These are (at section 79(1)(fa)) the insect nuisance in respect of which provision is made in regulation 2 of these Regulations (the insect nuisance) and (at section 79(1)(fb)) artificial light emitted from premises so as to be prejudicial to health or a nuisance (the artificial lights nuisance).

The amendments made by these Regulations enable reliance to be placed, upon appeal to the magistrates' court against an abatement notice which cites either an insect or artificial light statutory nuisance, on best practicable means having been used to abate, or to counteract the effects of, such nuisance. Section 79(1)(fa) (the insect nuisance) is added to the list of provisions at regulation 2(2)(e)(i) of the 1995 Regulations. Section 79(1)(fb) (the artificial light nuisance) is made the subject of a new regulation 2(2)(e)(iv) of the 1995 Regulations, providing that best practicable means is a ground of appeal against an abatement notice in respect of this nuisance where the artificial light is emitted either from industrial, trade or business premises, or by lights used for the purpose of illuminating an outdoor relevant sports facility (*regulation 3*).

2007 Rhif 117 (Cy.8)**2007 No. 117 (W.8)****DIOGELU'R AMGYLCHEDD,
CYMRU****ENVIRONMENTAL
PROTECTION, WALES****Rheoliadau Niwsansau Statudol
(Darpariaethau Amrywiol) (Cymru)
2007****The Statutory Nuisance
(Miscellaneous Provisions) (Wales)
Regulations 2007**

Wedi'u gwneud 23 Ionawr 2007
Yn dod i rym 31 Ionawr 2007

Made 23 January 2007
Coming into force 31 January 2007

Mae Cynulliad Cenedlaethol Cymru, gan mai ef yw'r person priodol at ddibenion adran 79(7C)(d) o Ddeddf Diogelu'r Amgylchedd 1990 ("Ddeddf 1990")(1), yn gwneud y Rheoliadau hyn drwy arfer y pwerau hynny a thrwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol, ac sy'n arferadwy bellach gan Gynulliad Cenedlaethol Cymru, o dan baragraff 1(4) o Atodlen 3 i'r Ddeddf honno(2):

The National Assembly for Wales being the appropriate person for the purposes of section 79(7C)(d) of the Environmental Protection Act 1990 ("the 1990 Act")(1), makes the following Regulations in exercise of those powers and in exercise of the powers conferred upon the Secretary of State and which are now exercisable by the National Assembly for Wales, under paragraph 1(4) of Schedule 3 to that Act(2):

Enwi, cychwyn a chymhwyso

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Niwsansau Statudol (Darpariaethau Amrywiol) (Cymru) 2007.

(2) Mae'r Rheoliadau hyn yn dod i rym ar 31 Ionawr 2007.

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

Title, commencement and application

1.-(1) The title of these Regulations is the Statutory Nuisances (Miscellaneous Provisions) (Wales) Regulations 2007.

(2) These Regulations come into force on 31 January 2007.

(3) These Regulations apply in relation to Wales.

**Mangreoedd diwydiannol perthnasol etc:
eithriadau pellach**

2. At ddibenion paragraff (d) o adran 79(7C) o Ddeddf 1990, rhagnodir tir o ddisgrifiad a grybwyllir yn yr Atodlen i'r Rheoliadau hyn.

**"Relevant industrial etc. premises": further
exclusions**

2. For the purposes of paragraph (d) of section 79(7C) of the 1990 Act, there is prescribed land of a description mentioned in the first column of the Table in the Schedule to these Regulations.

(1) 1990 p. 43; mewnosodwyd y diffiniad o "person priodol" yn adran 79(7) gan adran 101(4) o Ddeddf Cymdogaethau Glân a'r Amgylchedd 2005 (p. 16), a mewnosodwyd adran 79(7C) gan adran 101(5) o'r Ddeddf honno.

(2) Trosglwyddwyd swyddogaethau perthnasol yr Ysgrifennydd Gwladol o ran Cymru i Gynulliad Cenedlaethol Cymru gan erthygl 2(a) o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672), ac Atodlen 1 iddo.

(1) 1990 c. 43; the definition of "appropriate person" in section 79(7) was inserted by section 101(4) of the Clean Neighbourhoods and Environment Act 2005 (c. 16), and section 79(7C) was inserted by section 101(5) of that Act.

(2) The relevant functions of the Secretary of State in relation to Wales were transferred to the National Assembly for Wales by article 2(a) of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

Diwygio Rheoliadau Niwsans Statudol (Apelau) 1995

3.-(1) Mae Rheoliad 2 (apelau o dan adran 80(3) o Ddeddf 1990) o Reoliadau Niwsans Statudol (Apelau) 1995(1) wedi'i ddiwygio fel a ganlyn:

(2) Ym mharagraff (2)(e)-

(a) ym mharagraff (i), ar ôl "(f)" mewnosoder
", (fa)"(2);

(b) ar ôl paragraff (iii) mewnosoder-

"or

(iv) is a nuisance falling within section 79(1)(fb) of the 1990 Act and-

(aa) the artificial light is emitted from industrial, trade or business premises, or

(bb) the artificial light (not being light to which sub-paragraph (aa) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility (within the meaning given by section 80(8A) of the 1990 Act),"(3)

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(4)

23 Ionawr 2007

Llywydd y Cynulliad Cenedlaethol

Amendment of the Statutory Nuisance (Appeals) Regulations 1995

3.-(1) Regulation 2 (appeals under section 80(3) of the 1990 Act) of the Statutory Nuisance (Appeals) Regulations 1995(1) is amended as follows.

(2) In paragraph (2)(e)-

(a) in paragraph (i), after "(f)" insert ", (fa)"(2);

(b) after paragraph (iii) insert-

"or

(iv) is a nuisance falling within section 79(1)(fb) of the 1990 Act and-

(aa) the artificial light is emitted from industrial, trade or business premises, or

(bb) the artificial light (not being light to which sub-paragraph (aa) applies) is emitted by lights used for the purpose only of illuminating an outdoor relevant sports facility (within the meaning given by section 80(8A) of the 1990 Act),"(3).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(4)

23 January 2007

The Presiding Officer of the National Assembly

D. Elis-Thomas

(1) O.S. 1995/2644; mae'r Rheoliadau yn rhychwantu Cymru a Lloegr.

(2) Mewnosodwyd adran 79(1)(fa) o Ddeddf 1990 gan adran 101(2) o Ddeddf Cymdogaethau Glân a'r Amgylchedd 2005 (p. 16).

(3) Mewnosodwyd adran 79(1)(fb) o Ddeddf 1990 gan adran 102(2) o Ddeddf Cymdogaethau Glân a'r Amgylchedd Glân (p. 16). Mewnosodwyd adran 80(8A) gan adran 102(3) o Ddeddf 2005.

(4) 1998 p.38.

(1) S.I. 1995/2644; the Regulations extend to England and Wales, and were made by the Secretary of State for the Environment as respects England, and the Secretary of State for Wales as respects Wales.

(2) Section 79(1)(fa) of the 1990 Act was inserted by section 101(2) of the Clean Neighbourhoods and Environment Act 2005 (c. 16).

(3) Section 79(1)(fb) of the 1990 Act was inserted by section 102(2) of the Clean Neighbourhoods and Environment Act 2005 (c. 16). Section 80(8A) was inserted by section 102(3) of the Clean Neighbourhoods and Environment Act 2005.

(4) 1998 c. 38.

YR ATODLEN

SCHEDULE

Rheoliad 2

Regulation 2

<i>Disgrifiad o'r Tir</i>	<i>Deddfwriaeth</i>
Tir sydd wedi'i ddynodi am y tro fel Ardal Amgylcheddol Sensitif o dan adran 18(1) o Ddeddf Amaethyddiaeth 1986 (p. 49)	
Tir y gwneir unrhyw daliad mewn perthynas ag ef yn unol â darpariaethau Offeryn Statudol a enwir gyferbyn â hyn	Rheoliadau Cynefinoedd (Coetiroedd Llydanddail) (Cymru) 1994 (O.S. 1994/3099)
	Rheoliadau Cynefinoedd (Ymylon Dŵr) (Cymru) 1994 (O.S. 1994/3100)
	Rheoliadau Cynefinoedd (Lleiniau Arfordirol) (Cymru) 1994 (O.S. 1994/3101)
	Rheoliadau Cynefinoedd (Tiroedd Glas Toreithiog eu Rhywogaethau) 1994 (O.S. 1994/3102)
	Rheoliadau Cadwraeth (Cynefinoedd Naturiol, etc.) 1994 (O.S. 1994/2716)
	Cynllun Grantiau Gwastraff Fferm (Parthau Perygl Nitradau) (Cymru a Lloegr) 1996 (O.S. 1996/908)
	Cynllun Grantiau Gwastraff Fferm (Parthau Perygl Nitradau) (Cymru a Lloegr) 2001 (O.S. 2001/3709)
	Cynllun Grantiau Gwastraff Fferm (Parthau Perygl Nitradau) (Cymru) 2004 (O.S. 2004/1606)
	Rheoliadau Rhostiroedd (Dad-ddwysáu Da Byw) (Cymru) 1995 (O.S. 1995/1159)

<i>Description of Land</i>	<i>Legislation</i>
Land for the time being designated as an Environmentally Sensitive Area under section 18(1) of the Agriculture Act 1986 (c. 49)	
Land in respect of which any payment is made in accordance with the provisions of a Statutory Instrument cited opposite	The Habitat (Broadleaved Woodland) (Wales) Regulations 1994 (S.I. 1994/3099)
	The Habitat (Water Fringe) (Wales) Regulations 1994 (S.I. 1994/3100)
	The Habitat (Coastal Belt) (Wales) Regulations 1994 (S.I. 1994/3101)
	The Habitat (Species-Rich Grassland) Regulations 1994 (S.I. 1994/3102)
	The Conservation (Natural Habitats &c. (Regulations 1994 (S.I. 1994/2716)
	The Farm Waste Grant (Nitrate Vulnerable Zones) (Wales) Scheme 1996 (S.I. 1996/908)
	The Farm Waste Grant (Nitrate Vulnerable Zones) (England and Wales) Scheme 2001 (S.I. 2001/3709)
	The Farm Waste Grant Scheme (Nitrate Vulnerable Zones) (Wales) Scheme 2004 (S.I. 2004/1606)
	The Moorland (Livestock Extensification) (Wales) Regulations 1995 (S.I. 1995/1159)

	Rheoliadau Ffermio Organig (Cymorth) 1994 (O.S. 1994/1721)
	Rheoliadau'r Cynllun Ffermio Organig (Cymru) 2001 (O.S. 2001/424)
	Rheoliadau Tir Cynnal (Cymru) 2006 (O.S. 2006/41)
	Rheoliadau Cynllun Tir Gofal (Land in Care) (Cymru) 1999 (O.S. 1999/1176)

	The Organic Farming (Aid) Regulations 1994 (S.I. 1994/1721)
	The Organic Farming Scheme (Wales) Regulations 2001 (S.I. 2001/424)
	The Tir Cynnal (Wales) Regulations 2006 (S.I. 2006/41)
	The Land In Care (Tir Gofal) (Wales) Regulations 1999 (S.I. 1999 1176)

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