



OFFERYNNAU STATUDOL
CYMRU

WELSH
STATUTORY INSTRUMENTS

2008 Rhif 1214 (Cy.122)

2008 No. 1214 (W.122)

TRAFFIG FFYRDD, CYMRU

ROAD TRAFFIC, WALES

Rheoliadau Gorfodi Sifil ar
Dramgwyddau Parcio
(Darpariaethau Cyffredinol)
(Cymru) (Rhif 2) 2008

The Civil Enforcement of Parking
Contraventions (General
Provisions) (Wales) (No. 2)
Regulations 2008

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 dirymu ac yn disodli Rheoliadau Gorfodi Sifil ar Dramgwyddau Parcio (Darpariaethau Cyffredinol) (Cymru) 2008 ((S.I. 2008/614 (Cy.66)). Mae'r Rheoliadau yn darparu ar gyfer gorfodi sifil ar dramgwyddau parcio yng Nghymru yn unol â Rhan 6 o Ddeddf Rheoli Traffig 2004. Mae Rhan 6 o Ddeddf 2004 a Rheoliadau a wneir oddi tani yn disodli darpariaethau Rhan II ac Atodlen 3 o Ddeddf Traffig Ffyrdd 1991.

These Regulations revoke and replace the Civil Enforcement of Parking Contraventions (General Provisions) (Wales) Regulations 2008 (S.I. 2008/614 (W.66)). The Regulations provide for the civil enforcement of parking contraventions in Wales in accordance with Part 6 of the Traffic Management Act 2004. Part 6 of the 2004 Act and Regulations made thereunder supersede the provisions of Part II and Schedule 3 of the Road Traffic Act 1991.

Mae rheoliad 3 yn galluogi bod tâl cosb yn cael ei osod am fathau penodol o dramgwyddau parcio. Mae tâl cosb yn daladwy gan berchennog y cerbyd o dan sylw (rheoliad 4(1)), ac eithrio yn yr amgylchiadau a bennir yn rheoliad 4(2) i (4) (cerbyd a logir gan ffyrm llogi cerbydau o dan gytundeb llogi cerbydau). Yn unol â rheoliad 5, rhaid peidio â gosod tâl cosb ac eithrio ar sail cofnod a gynhyrchir gan "ddyfais a gymeradwyir" (gweler adran 92(1) o Ddeddf Rheoli Traffig 2004 a Gorchymyn Gorfodi Sifil ar Dramgwyddau Parcio (Dyfeisiadau a Gymeradwyir) (Cymru) (Rhif 2) 2008 (O.S. 2008/1215 (Cy.123)) neu wybodaeth a roddir gan swyddog gorfodi sifil o ran ymddygiad y bydd y swyddog hwnnw yn sylwi arno. Mae rheoliad 6 yn darparu na fydd tâl cosb yn daladwy am dramgwydd parcio os yw'r tramgwydd yn destun achos troseddol neu os rhodddwyd hysbysiad o gosb benodedig o dan Ddeddf Tramgwyddwyr Traffig Ffyrdd 1988, ond, os caiff tâl cosb ei dalu mewn gwirionedd yn y naill amgylchiad neu'r llall, rhaid i'r awdurdod gorfodi ei ad-dalu.

Regulation 3 enables a penalty charge to be imposed for specified types of parking contravention. A penalty charge is payable by the owner of the vehicle concerned (regulation 4(1)), except in the circumstances specified in regulation 4(2) to (4) (vehicle hired from a vehicle hiring firm under a vehicle hiring agreement). In accordance with regulation 5, a penalty charge is not to be imposed except on the basis of a record produced by an "approved device" (see section 92(1) of the Traffic Management Act 2004 and the Civil Enforcement of Parking Contraventions (Approved Devices) (Wales) (No.2) Order 2008 (S.I. 2008/1215 (W.123)) or information given by a civil enforcement officer as to conduct observed by that officer. Regulation 6 provides that a penalty charge is not to be payable for a parking contravention where the contravention is the subject of criminal proceedings or a fixed penalty notice has been given under the Road Traffic Offenders Act 1988, but, if a penalty charge is in fact paid in either of those circumstances, it must be refunded by the enforcement authority.

Gwneir darpariaeth gan Ran 3 ynghylch atal cerbydau rhag symud. Mae rheoliad 7 yn diffinio pryd y caniateir gosod dyfais ar gerbyd i'w atal rhag symud, yn ei gwneud yn ofynnol i hysbysiad gael ei osod ar y cerbyd pan atelir ef rhag symud ac yn creu'r tramgwyddau o ymyrryd â'r hysbysiad neu'r ddyfais atal rhag symud. Mae rheoliad 8 yn pennu eithriadau i'r pŵer cyffredinol i atal cerbydau rhag symud ac mae rheoliad 9 yn pennu'r rhagangenrheidiau ar gyfer rhyddhau cerbyd o'r ddyfais atal rhag symud.

Yn Rhan 4, mae rheoliad 10 yn cymhwyso adran 55 o Ddeddf Rheoleiddio Traffig Ffyrdd 1984, gydag addasiadau, i incwm a gwariant awdurdodau gorfodi o dan Ran 6 o Ddeddf Rheoli Traffig 2004 ac mae rheoliad 11 yn darparu ar gyfer cario gwargedau ymlaen gan awdurdodau lleol mewn cyfrifon a gedwir o dan adran 55 fel yr oedd yr adran honno yn gymwys i'r awdurdodau hynny o dan orchmynion a wnaed o dan Atodlen 3 i Ddeddf Traffig Ffyrdd 1991.

Mae Aseiad Effaith Rheoleiddiol llawn a Memorandwm Esboniadol i'w gael gan yr Uned Trafnidiaeth Integredig, yr Is-adran Cynllunio Trafnidiaeth a Gweinyddu, Trafnidiaeth Cymru, Llywodraeth Cynulliad Cymru, Swyddfeydd y Goron, Parc Cathays, Caerdydd, CF 10 3NQ neu ar wefan Llywodraeth Cynulliad Cymru yn

<http://www.assemblywales.org/bus-home/buslegislation/bus/bus-legislation-sub/bus-legislation-sub-annulment.htm>

Provision is made by Part 3 as to the immobilisation of vehicles. Regulation 7 defines when an immobilisation device may be fixed to a vehicle, requires a notice to be fixed to the vehicle at the time of immobilisation and creates the offences of interfering with the notice or the immobilisation device. Regulation 8 specifies exceptions to the general power to immobilise and regulation 9 specifies the pre-requisites for the release of a vehicle from an immobilisation device.

In Part 4, regulation 10 applies section 55 of the Road Traffic Regulation Act 1984, with modifications, to the income and expenditure of enforcement authorities under Part 6 of the Traffic Management Act 2004 and regulation 11 provides for the carrying forward of the surpluses by local authorities in accounts kept under section 55 as that section applied to those authorities under orders made under Schedule 3 to the Road Traffic Act 1991.

A full Regulatory Impact Assessment and Explanatory Memorandum can be obtained from the Integrated Transport Unit, Transport, Planning and Administration Division, Transport Wales, Welsh Assembly Government, Crown Offices, Cathays Park, Cardiff, CF10 3NQ or on the Welsh Assembly Government website at

<http://www.assemblywales.org/bus-home/buslegislation/bus/bus-legislation-sub/bus-legislation-sub-annulment.htm>

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ROAD TRAFFIC, WALES

Rheoliadau Gorfodi Sifil ar
Dramgwyddau Parcio
(Darpariaethau Cyffredinol)
(Cymru) (Rhif 2) 2008

The Civil Enforcement of Parking
Contraventions (General
Provisions) (Wales) (No. 2)
Regulations 2008

Gwnaed 29 Ebrill 2008
*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 30 Ebrill 2008
Yn dod i rym 22 Mai 2008

Made 29 April 2008
*Laid before the National
Assembly for Wales* 30 April 2008
Coming into force 22 May 2008

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Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i Gynulliad Cenedlaethol Cymru gan adrannau 72, 73(3), 79, 88 a 89 o Ddeddf Rheoli Traffig 2004(1) ac sydd bellach wedi'u breinio ynddynt(2), drwy hyn yn gwneud y Rheoliadau a ganlyn:

RHAN 1

RHAGARWEINIOL

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Gorfodi Sifil ar Dramgwyddau Parcio (Darpariaethau Cyffredinol) (Cymru) (Rhif 2) 2008. Deuant i rym ar 22 Mai 2008.

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

Dehongli

2.—(1) Yn y Rheoliadau hyn—

mae i "ardal gorfodi sifil" yr ystyr a roddir i "*civil enforcement area*" ym mharagraff 8 o Atodlen 8 i Ddeddf 2004;

ystyr "awdurdod gorfodi" ("*enforcement authority*") o ran tâl cosb neu atal cerbyd rhag symud neu symud cerbyd ymaith yw'r awdurdod gorfodi o ran y tramgwydd honedig y codwyd tâl neu yr ataliwyd y cerbyd rhag symud o ganlyniad iddo;

(1) 2004 p.18. Diwygiwyd adran 79 gan Ddeddf Gwahaniaethu ar sail Anabledd 2005 (p.13), Atodlen 1, paragraff 48 a diwygiwyd adran 81 gan O.S. 2006/1016. Yn rhinwedd adran 92, dynodwyd Cynulliad Cenedlaethol Cymru yn "awdurdod cenedlaethol priodol" o ran Cymru, at ddibenion rheoliadau a wnaed o dan Ran 6.

(2) Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru o dan Ddeddf Rheoli Traffig 2004 i Weiniogion Cymru yn rhinwedd paragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).

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11. Surpluses to be carried forward
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The Welsh Ministers, in exercise of the powers conferred upon the National Assembly for Wales by sections 72, 73(3), 79, 88 and 89 of the Traffic Management Act 2004(1) and now vested in them(2), hereby make the following Regulations:

PART 1

PRELIMINARY

Title, commencement and application

1.—(1) The title of these Regulations is the Civil Enforcement of Parking Contraventions (General Provisions) (Wales) (No. 2) Regulations 2008. They come into force on 22nd May 2008.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

"the 2004 Act" ("*y Ddeddf 2004*") means the Traffic Management Act 2004;

"adjudicator" ("*dyfarnydd*") means an adjudicator appointed under regulation 9 of the Enforcement and Adjudication Regulations;

"approved device" ("*dyfais a gymeradwyir*") has the meaning given by article 2 of the Civil Enforcement of Parking Contraventions (Approved Devices) (Wales) (No.2) Order 2008(3);

(1) 2004 c. 18. Section 79 was amended by the Disability Discrimination Act 2005 (c.13), Schedule 1, paragraph 48 and section 81 was amended by S.I. 2006/1016. By virtue of section 92, the National Assembly for Wales was designated as the "appropriate national authority" as regards Wales, for the purposes of regulations made under Part 6.

(2) The functions of the National Assembly for Wales under the Traffic Management Act 2004 were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

(3) S.I. 2008/1215 (W.123).

ystyr "awdurdodau gorfodi Cymru" ("*the Welsh enforcement authorities*") yw'r awdurdodau gorfodi hynny sy'n awdurdodau lleol yng Nghymru;

ystyr "Deddf 2004" ("*the 2004 Act*") yw Deddf Rheoli Traffig 2004;

mae i "dyfais a gymeradwyir" ("*approved device*") yr ystyr a roddir iddo gan erthygl 2 o Orchymyn Gorfodi Sifil ar Dramgwyddau Parcio (Dyfeisiadau a Gymeradwyir) (Cymru) (Rhif 2) 2008(1);

ystyr "dyfarnydd" ("*adjudicator*") yw dyfarnydd a benodwyd o dan reoliad 9 o'r Rheoliadau Gorfodi a Dyfarnu;

dehonglir "dyledus" ("*outstanding*") o ran tâl cosb yn unol â pharagraffau (2) i (4);

mae i "hysbysiad o dâl cosb" ("*penalty charge notice*") yr ystyr a roddir iddo yn rheoliad 4 o Rheoliadau Gorfodi a Dyfarnu;

"hysbysiad rheoliad 6 o dâl cosb" ("*regulation 6 penalty charge notice*") yw hysbysiad o dâl cosb a gyflwynir o dan reoliad 6 o'r Rheoliadau Gorfodi a Dyfarnu;

mae "perchennog" ("*owner*") o ran cerbyd yn cynnwys unrhyw berson sydd i'w drin fel perchennog y cerbyd yn rhinwedd rheoliad 4;

ystyr "y Rheoliadau Gorfodi a Dyfarnu" ("*the Enforcement and Adjudication Regulations*") yw Rheoliadau Gorfodi Sifil ar Dramgwyddau Parcio (Hysbysiadau Tâl Cosbau, Gorfodi a Dyfarnu) (Cymru) 2008(2);

ystyr "y Rheoliadau Sylwadau ac Apelau" ("*the Representations and Appeals Regulations*") yw Rheoliadau Gorfodi Sifil ar Dramgwyddau Parcio (Sylwadau ac Apelau) (Cymru) 2008(3);

mae i "swyddog gorfodi sifil" yr ystyr a roddir i "*civil enforcement officer*" yn adran 76 o Ddeddf 2004;

ystyr "tâl cosb" ("*penalty charge*") yw tâl cosb ynghylch tramgwydd parcio ac sy'n daladwy yn unol â rheoliad 3; ac

ystyr "tramgwydd croesfan i gerddwyr" ("*pedestrian crossing contravention*") yw tramgwydd parcio sy'n dramgwydd y cyfeirir ato ym mharagraff 4(2)(c) o Atodlen 7 i Ddeddf 2004 (gwahardd cerbydau rhag stopio ar neu gerllaw croesfannau i gerddwyr).

"civil enforcement area" ("*ardal gorfodi sifil*") has the meaning given by paragraph 8 of Schedule 8 to the 2004 Act;

"civil enforcement officer" ("*swyddog gorfodi sifil*") has the meaning given by section 76 of the 2004 Act;

"the Enforcement and Adjudication Regulations" ("*y Rheoliadau Gorfodi a Dyfarnu*") means the Civil Enforcement of Parking Contraventions (Penalty Charge Notices, Enforcement and Adjudication) (Wales) Regulations 2008(1);

"enforcement authority" ("*awdurdod gorfodi*") in relation to a penalty charge or the immobilisation or removal of a vehicle means the enforcement authority in relation to the alleged contravention in consequence of which the charge was incurred or the vehicle was immobilised;

"outstanding" ("*dyledus*") in relation to a penalty charge is to be construed in accordance with paragraphs (2) to (4);

"owner" ("*perchennog*") in relation to a vehicle includes any person who falls to be treated as the owner of the vehicle by virtue of regulation 4;

"pedestrian crossing contravention" ("*tramgwydd croesfan i gerddwyr*") means a parking contravention consisting of an offence referred to in paragraph 4(2)(c) of Schedule 7 to the 2004 Act (prohibition on stopping of vehicles on or near pedestrian crossings);

"penalty charge" ("*tâl cosb*") means a penalty charge relating to a parking contravention and payable in accordance with regulation 3;

"penalty charge notice" ("*hysbysiad o dâl cosb*") has the meaning given in regulation 4 of the Enforcement and Adjudication Regulations;

"regulation 6 penalty charge notice" ("*hysbysiad rheoliad 6 o dâl cosb*") means a penalty charge notice served under regulation 6 of the Enforcement and Adjudication Regulations;

"the Welsh enforcement authorities" ("*awdurdodau gorfodi Cymru*") means those enforcement authorities which are local authorities in Wales;

"the Representations and Appeals Regulations" ("*y Rheoliadau Sylwadau ac Apelau*") means the Civil Enforcement of Parking Contraventions (Representations and Appeals)(Wales) Regulations 2008(2).

(1) O.S. 2008/1215 (Cy.123).

(2) O.S. 2008/609.

(3) O.S. 2008/608.

(1) S.I. 2008/609.

(2) S.I. 2008/608.

(2) At ddibenion y Rheoliadau hyn mae tâl cosb yn ddyledus o ran cerbyd—

- (a) os na chafodd y tâl ei dalu ac nad yw'r awdurdod gorfodi y mae'r tâl yn daladwy iddo wedi hepgor taliad, p'un ai drwy ddiddymu'r hysbysiad o dâl cosb neu hysbysiad i'r perchennog neu fel arall;
- (b) os perchennog y cerbyd pan oedd wedi'i atal rhag symud oedd hefyd yn berchennog y cerbyd pan osodwyd y tâl cosb; ac
- (c) naill ai—
 - (i) os cafodd hysbysiad i'r perchennog neu hysbysiad rheoliad 6 o dâl cosb ei chyflwyno ynglŷn â'r tâl a bod yr amodau ym mharagraff (3) wedi'u bodloni; neu
 - (ii) os na chafodd hysbysiad i'r perchennog neu hysbysiad rheoliad 6 o dâl cosb ei chyflwyno ynglŷn â'r tâl a bod yr amodau ym mharagraff (4) wedi'u bodloni.

(3) Dyma'r amodau y cyfeirir atynt ym mharagraff (2)(c)(i)—

- (a) bod y tâl cosb wedi ei osod, yn unol â'r Rheoliadau hyn, gan awdurdod gorfodi o ran tramgwydd parcio;
- (b) bod y tâl cosb yn destun tystysgrif dâl a gyflwynwyd o dan reoliad 13 o'r Rheoliadau Gorfodi a Dyfarnu na chafodd ei roi o'r neilltu yn unol â rheoliad 15 o'r Rheoliadau hynny.

(4) Dyma'r amodau y cyfeirir atynt ym mharagraff (2)(c)(ii)—

- (a) bod y tâl cosb yn ymwneud â cherbyd, a oedd pan ddaeth y tâl cosb yn daladwy—
 - (i) heb ei gofrestru o dan Ddeddf Tollau a Chofrestru Cerbydau 1994(1); neu
 - (ii) wedi ei gofrestru, ond heb gynnwys yn y manylion cofrestru enw a chyfeiriad cywir ceidwad y cerbyd;
- (b) ar ôl cymryd pob cam rhesymol, nad oedd yr awdurdod gorfodi yr oedd y tâl cosb yn daladwy iddo yn gallu canfod enw a chyfeiriad ceidwad y cerbyd ac o ganlyniad nad oedd yn gallu cyflwyno hysbysiad i'r perchennog o dan reoliad 11 o'r Rheoliadau Gorfodi a Dyfarnu neu hysbysiad rheoliad 6 o dâl cosb; ac
- (c) bod y cyfnod o 42 o ddiwrnodau sy'n dechrau gyda'r dyddiad y daw'r tâl cosb yn daladwy wedi dod i ben.

(2) For the purposes of these Regulations a penalty charge is outstanding in relation to a vehicle if—

- (a) the charge has not been paid and the enforcement authority to which the charge is payable has not waived payment, whether by cancellation of the penalty charge notice or notice to owner or otherwise;
- (b) the owner of the vehicle when it was immobilised was also the owner of the vehicle when the penalty charge was imposed; and
- (c) either—
 - (i) a notice to owner or regulation 6 penalty charge notice has been served in respect of the charge and the conditions in paragraph (3) are satisfied; or
 - (ii) no notice to owner or regulation 6 penalty charge notice has been served in respect of the charge and the conditions in paragraph (4) are satisfied.

(3) The conditions referred to in paragraph (2)(c)(i) are that—

- (a) the penalty charge was imposed, in accordance with these Regulations, by an enforcement authority in respect of a parking contravention;
- (b) the penalty charge is the subject of a charge certificate served under regulation 13 of the Enforcement and Adjudication Regulations which has not been set aside in accordance with regulation 15 of those Regulations.

(4) The conditions referred to in paragraph (2)(c)(ii) are that—

- (a) the penalty charge related to a vehicle which, when the penalty charge became payable—
 - (i) was not registered under the Vehicle Excise and Registration Act 1994(1); or
 - (ii) was so registered, but without the inclusion in the registered particulars of the correct name and address of the keeper of the vehicle;
- (b) having taken all reasonable steps, the enforcement authority to which the penalty charge was payable was unable to ascertain the name and address of the keeper of the vehicle and was consequently unable to serve a notice to owner under regulation 11 of the Enforcement and Adjudication Regulations, or a regulation 6 penalty charge notice; and
- (c) the period of 42 days beginning with the date on which the penalty charge became payable has expired.

Gosod taliadau cosb

3. Yn ddarostyngedig i ddarpariaethau'r Rheoliadau hyn mae tâl cosb yn daladwy o ran cerbyd y cyflawnwyd yn ei gylch dramgwydd parcio o fewn paragraff 4 o Atodlen 7 i Ddeddf 2004 mewn ardal gorfodi sifil yng Nghymru.

Y person sydd i dalu tâl cosb

4.—(1) Pan fydd tramgwydd parcio'n digwydd, penderfynir pwy yw'r person sydd i dalu'r tâl cosb am y tramgwydd yn unol â darpariaeth ganlynol y rheoliad hwn.

(2) Mewn achos nad yw'n dod o fewn paragraff (3), bydd y tâl cosb yn daladwy gan y person a oedd yn berchennog y cerbyd a oedd yn destun y tramgwydd ar yr adeg berthnasol.

(3) Os bydd—

- (a) y cerbyd yn gerbyd a yrrir yn fecanyddol a oedd, ar yr adeg berthnasol, yn cael ei logi gan ffyrm llogi cerbydau o dan gytundeb llogi;
- (b) y person sy'n llogi'r cerbyd wedi llofnodi datganiad yn cydnabod ei atebolrwydd o ran unrhyw hysbysiad o dâl cosb a gyflwynir o ran unrhyw dramgwydd parcio sy'n ymwneud â'r cerbyd yn ystod cyfnod y cytundeb llogi; ac
- (c) perchennog y cerbyd, mewn ymateb i hysbysiad i berchennog a gyflwynir iddo, wedi gwneud sylwadau ar y sail a bennir yn rheoliad 4(4)(ch) o'r Rheoliadau Sylwadau ac Apelau a bod yr awdurdod gorfodi wedi derbyn y sylwadau hynny,

bydd y tâl cosb yn daladwy gan y person y llogwyd y cerbyd ganddo ac ymdrinnir â'r person hwnnw fel pe bai'n berchennog y cerbyd ar yr adeg berthnasol at ddibenion y Rheoliadau hyn.

(4) Yn y rheoliad hwn—

- (a) mae i "cytundeb llogi" a "ffyrm llogi cerbydau" yr ystyr sydd i "*hiring agreement*" a "*vehicle-hire firm*" yn adran 66 o Ddeddf Tramgwyddwyr Traffig Ffyrdd 1988(1); a
- (b) ystyr "yr adeg berthnasol" ("*the material time*") yw'r adeg y dywedir bod y tramgwydd sy'n peri'r tâl cosb wedi digwydd.

Imposition of penalty charges

3. Subject to the provisions of these Regulations a penalty charge is payable with respect to a vehicle where there has been committed in relation to that vehicle a parking contravention within paragraph 4 of Schedule 7 to the 2004 Act in a civil enforcement area in Wales.

Person by whom a penalty charge is to be paid

4.—(1) Where a parking contravention occurs, the person by whom the penalty charge for the contravention is to be paid, will be determined in accordance with the following provisions of this regulation.

(2) In a case not falling within paragraph (3), the penalty charge is payable by the person who was the owner of the vehicle involved in the contravention at the material time.

(3) Where—

- (a) the vehicle is a mechanically propelled vehicle which was, at the material time, hired from a vehicle-hire firm under a hiring agreement;
- (b) the person hiring it had signed a statement of liability acknowledging his or her liability in respect of any penalty charge notice served in respect of any parking contravention involving the vehicle during the currency of the hiring agreement; and
- (c) in response to a notice to owner served on him or her, the owner of the vehicle made representations on the ground specified in regulation 4(4)(d) of the Representations and Appeals Regulations and the enforcement authority accepted those representations,

the penalty charge is payable by the person by whom the vehicle was hired and that person will be treated as if he or she were the owner of the vehicle at the material time for the purposes of these Regulations.

(4) In this regulation—

- (a) "hiring agreement" ("*cytundeb llogi*") and "vehicle-hire firm" ("*ffyrm llogi cerbydau*") have the same meanings as in section 66 of the Road Traffic Offenders Act 1988(1); and
- (b) "the material time" ("*yr adeg berthnasol*") means the time when the contravention giving rise to the penalty charge is said to have occurred.

Tystiolaeth o dramgwydd

5. Ni osodir tâl cosb ac eithrio—

- (a) ar y sail y cynhyrchir cofnod gan ddyfais a gymeradwyir; neu
- (b) ar sail yr wybodaeth a roddir gan swyddog gorfodi sifil o ran ymddygiad y bydd y swyddog hwnnw wedi sylwi arno.

Achosion troseddol am dramgwyddau parcio mewn ardaloedd gorfodi sifil

6.—(1) Ni cheir cychwyn achos troseddol ac ni cheir cyflwyno hysbysiad o gosb benodedig o ran unrhyw dramgwydd parcio sy'n digwydd mewn ardal gorfodi sifil, ac eithrio tramgwydd croesfan i gerddwyr.

(2) Ni fydd tâl cosb yn daladwy o ran tramgwydd croesfan i gerddwyr—

- (a) os yw'r ymddygiad sy'n gwneud y tramgwydd yn destun achos troseddol; neu
- (b) os rhoddwyd hysbysiad o gosb benodedig, fel y'i diffinnir gan adran 52 o Ddeddf Tramgwyddwyr Traffig Ffyrdd 1988(1), ynglŷn â'r ymddygiad hwnnw.

(3) Er gwaethaf darpariaethau paragraff (2)—

- (a) os talwyd tâl cosb ynglŷn â thramgwydd croesfan i gerddwyr; a
- (b) os yw'r amgylchiadau fel a grybwyllir ym mharagraff (2)(a) neu (b),

rhaid i'r awdurdod gorfodi, cyn gynted ag y bo'n rhesymol ymarferol ar ôl i'r amgylchiadau ddod i'w sylw, ad-dalu swm y tâl cosb.

RHAN 3

ATAL CERBYDAU RHAG SYMUD

Pŵer i atal cerbydau rhag symud

7.—(1) Yn ddarostyngedig i reoliad 8, (terfynau ar y pŵer i atal cerbydau rhag symud) os bydd gan swyddog gorfodi sifil reswm i gredu y caniatawyd i gerbyd aros yn ei unfan yn unrhyw fan mewn ardal gorfodi sifil mewn amgylchiadau pan fo tâl cosb wedi dod yn daladwy, caiff y swyddog neu berson sy'n gweithredu o dan ei gyfarwyddyd osod dyfais sy'n atal y cerbyd rhag symud tra erys yn y man lle y daethpwyd o hyd iddo.

(1) Diwygiwyd adran 52 gan Ddeddf Mynediad at Gyfiawnder 1999 (p.22), paragraff 147, gan Ddeddf y Llysoedd 2003 (p.39) Atodlen 8, paragraff 314 a chan Ddeddf Cyfraith Statud (Diddymiadau) 2004 (p.14), Atodlen 1, Rhan 14.

Evidence of contravention

5. A penalty charge must not be imposed except on the basis of—

- (a) a record produced by an approved device; or
- (b) information given by a civil enforcement officer as to conduct observed by that officer.

Criminal proceedings for parking contraventions in civil enforcement areas

6.—(1) No criminal proceedings may be instituted and no fixed penalty notice may be served in respect of any parking contravention occurring in a civil enforcement area, except a pedestrian crossing contravention.

(2) A penalty charge will not be payable in relation to a pedestrian crossing contravention where—

- (a) the conduct constituting the contravention is the subject of criminal proceedings; or
- (b) a fixed penalty notice, as defined by section 52 of the Road Traffic Offenders Act 1988(1), has been given in respect of that conduct.

(3) Where, notwithstanding the provisions of paragraph (2)—

- (a) a penalty charge has been paid in respect of a pedestrian crossing contravention; and
- (b) the circumstances are as mentioned in paragraph (2)(a) or (b),

the enforcement authority must, as soon as reasonably practicable after those circumstances come to its notice, refund the amount of the penalty charge.

PART 3

IMMOBILISATION OF VEHICLES

Power to immobilise vehicles

7.—(1) Subject to regulation 8, (limitations on the power to immobilise vehicles) where a civil enforcement officer has reason to believe that a vehicle has been permitted to remain at rest in any place in a civil enforcement area in circumstances in which a penalty charge has become payable, he or she or a person acting under his or her direction may fix an immobilisation device to the vehicle while it remains in the place where it was found.

(1) Section 52 was amended by the Access to Justice Act 1999 (c.22), paragraph 147, by the Courts Act 2003 (c.39) Schedule 8, paragraph 314 and by the Statute Law (Repeals) Act 2004 (c.14), Schedule 1, Part 14.

(2) Ar unrhyw achlysur pan osodir dyfais ar gerbyd sy'n ei rwystro rhag symud yn unol â'r rheoliad hwn, rhaid i'r person sy'n gosod y ddyfais osod hefyd ar y cerbyd hysbysiad—

- (a) sy'n dangos bod dyfais o'r fath wedi cael ei gosod ar y cerbyd ac yn rhybuddio na ddylid ceisio ei yrru neu fel arall beri iddo symud hyd nes y rhyddheir ef oddi wrth y ddyfais honno;
- (b) sy'n pennu'r camau i'w cymryd er mwyn sicrhau ei ryddhad; ac
- (c) sy'n rhybuddio bod symud dyfais sy'n rhwystro cerbyd rhag symud yn anghyfreithlon yn dramgwydd.

(3) Rhaid peidio â thynnu neu ymyrryd â hysbysiad a osodwyd ar gerbyd yn unol â'r adran hon ac eithrio gan neu o dan awdurdod—

- (a) y perchennog, neu'r person sydd â rheolaeth dros y cerbyd; neu
- (b) yr awdurdod gorfodi.

(4) Mae person sy'n mynd yn groes i baragraff (3) yn euog o dramgwydd a bydd yn agored ar gollfarn ddiannod i ddirwy nad yw'n fwy na lefel 2 ar y raddfa safonol.

(5) Bydd unrhyw berson sydd, heb awdurdod i wneud hynny yn unol â'r Rheoliadau hyn, yn tynnu neu'n ceisio tynnu dyfais a osodwyd i rwystro cerbyd rhag symud yn unol â'r rheoliad hwn yn euog o dramgwydd a bydd yn atebol ar gollfarn ddiannod i ddirwy nad yw'n fwy na lefel 3 ar y raddfa safonol.

Terfynau ar y pŵer i atal cerbydau rhag symud

8.—(1) Rhaid peidio â gosod dyfais sy'n atal cerbyd rhag symud ar gerbyd os arddangosir ar y cerbyd—

- (a) bathodyn cyfredol person anabl; neu
- (b) bathodyn cyfredol a gydnabyddir.

(2) Mewn achos y byddai dyfais sy'n atal cerbyd rhag symud wedi cael ei gosod ar gerbyd oni bai am baragraff (1)(a), os nad oedd y cerbyd yn cael ei ddefnyddio—

- (a) yn unol â rheoliadau o dan adran 21 o Ddeddf Cleifion Cronig a Phersonau Anabl 1970(1)

(2) On any occasion when an immobilisation device is fixed to a vehicle in accordance with this regulation, the person fixing the device must also fix to the vehicle a notice—

- (a) indicating that such a device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from that device;
- (b) specifying the steps to be taken in order to secure its release; and
- (c) warning that unlawful removal of an immobilisation device is an offence.

(3) A notice fixed to a vehicle in accordance with this section must not be removed or interfered with except by or under the authority of—

- (a) the owner, or person in charge of the vehicle; or
- (b) the enforcement authority.

(4) A person contravening paragraph (3) is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) Any person who, without being authorised to do so in accordance with these Regulations, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with this regulation is guilty of an offence and will be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Limitations on the power to immobilise vehicles

8.—(1) An immobilisation device must not be fixed to a vehicle if there is displayed on the vehicle—

- (a) a current disabled person's badge; or
- (b) a current recognised badge.

(2) If, in a case in which an immobilisation device would have been fixed to a vehicle but for paragraph (1)(a), the vehicle was not being used—

- (a) in accordance with regulations under section 21 of the Chronically Sick and Disabled Persons Act 1970(1);

(1) 1970 p.44: o ran Cymru, diwygiwyd adran 21 gan Ddeddf Llywodraeth Leol 1972 (p.70), Atodlen 30, gan Ddeddf Trafnidiaeth 1982 (p.49) adran 68, gan Ddeddf Rheoleiddio Traffig Ffyrdd 1984 (p.27), Atodlen 13, gan Ddeddf Llywodraeth Leol 1985 (p.51), Atodlen 5, paragraff 1, gan Ddeddf Traffig Ffyrdd 1991 (p.40), adran 35(2)-(5), Atodlen 8, gan Ddeddf Llywodraeth Leol (Cymru) 1994, Atodlen 10, paragraff 8, Atodlen 18, gan Ddeddf Rheoli Traffig 2004 adran 94(1)-(4) a chan Ddeddf Gwahaniaethu ar sail Anabledd 2005 (p.13) Atodlen 1, paragraff 41.

(1) 1970 c.44: in relation to Wales, section 21 was amended by the Local Government Act 1972 (c.70), Schedule 30, by the Transport Act 1982 (c.49) section 68, by the Road Traffic Regulation Act 1984 (c.27), Schedule 13, by the Local Government Act 1985 (c.51), Schedule 5, paragraph 1, by the Road Traffic Act 1991 (c.40), section 35(2)-(5), Schedule 8, by the Local Government (Wales) Act 1994, Schedule 10, paragraph 8, Schedule 18, by the Traffic Management Act 2004 section 94(1)-(4) and by the Disability Discrimination Act 2005 (c.13) Schedule 1, paragraph 41.

- (b) mewn amgylchiadau sy'n dod o fewn adran 117(1)(b) o Ddeddf Rheoleiddio Traffig Ffyrdd 1984(1) (defnydd lle y byddai consesiwn person anabl ar gael),

bydd y person â rheolaeth dros y cerbyd yn euog o dramgwydd ac yn atebol ar gollfarn ddiannod i ddirwy na fydd yn fwy na lefel 3 ar y raddfa safonol.

(3) Mewn achos y byddai dyfais sy'n atal cerbyd rhag symud wedi cael ei gosod ar gerbyd oni bai am baragraff (1)(b), os nad oedd y cerbyd yn cael ei ddefnyddio—

- (a) yn unol â rheoliadau o dan adran 21A o Ddeddf Cleifion Cronig a Phersonau Anabl 1970(2);

- (b) mewn amgylchiadau sy'n dod o fewn adran 117(1A)(b) o Ddeddf Rheoleiddio Traffig Ffyrdd 1984(3)(defnydd lle y byddai consesiwn person anabl ar gael yn rhinwedd arddangos bathodyn nad yw'n fathodyn Prydain Fawr),

bydd y person â rheolaeth dros y cerbyd yn euog o dramgwydd ac yn atebol ar gollfarn ddiannod i ddirwy na fydd yn fwy na lefel 3 ar y raddfa safonol.

(4) Rhaid peidio â gosod dyfais atal cerbyd rhag symud ar gerbyd sydd mewn man parcio o ran tramgwydd sy'n golygu methiant, neu'n codi o fethiant—

- (a) i dalu tâl parcio ynglŷn â'r cerbyd;
- (b) i arddangos tocyn neu ddyfais parcio; neu
- (c) i symud y cerbyd o'r man parcio erbyn diwedd y cyfnod y talwyd y tâl priodol amdano,

nes bod y cyfnod priodol wedi mynd heibio ers rhoi'r hysbysiad o dâl cosb o dan reoliad 5 o Reoliadau Gorfodi Sifil ar Dramgwyddau Parcio (Hysbysiadau Tâl Cosbau, Gorfodi a Dyfarnu) (Cymru) 2008 ynglŷn â'r tramgwydd.

(5) At ddibenion paragraff (4) y cyfnod priodol yw—

- (a) yn achos cerbyd y mae 3 thâl cosb yn ddyledus yn ei gylch, 15 munud;
- (b) mewn unrhyw achos arall, 30 munud.

- (b) in circumstances falling within section 117(1)(b) of the Road Traffic Regulation Act 1984(1) (use where a disabled persons' concession would be available),

the person in charge of the vehicle will be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) If, in a case in which an immobilisation device would have been fixed to a vehicle but for paragraph (1)(b), the vehicle was not being used—

- (a) in accordance with regulations under section 21A of the Chronically Sick and Disabled Persons Act 1970(2);

- (b) in circumstances falling within section 117(1A)(b) of the Road Traffic Regulation Act 1984 (3)(use where a disabled person's concession would be available by virtue of displaying a non-GB badge),

the person in charge of the vehicle will be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) An immobilisation device must not be fixed to a vehicle which is in a parking place in respect of a contravention consisting of, or arising out of, a failure—

- (a) to pay a parking charge with respect to the vehicle;
- (b) properly to display a ticket or parking device; or
- (c) to remove the vehicle from a parking place by the end of the period for which the appropriate charge was paid,

until the appropriate period has elapsed since the giving of a penalty charge notice under regulation 5 of the Civil Enforcement of Parking Contraventions (Penalty Charge Notices, Enforcement and Adjudication)(Wales) Regulations 2008 in respect of the contravention.

(5) For the purposes of paragraph (4) the appropriate period is—

- (a) in the case of a vehicle in respect of which there are 3 or more penalty charges outstanding, 15 minutes;
- (b) in any other case 30 minutes.

(1) 1984 (p.27); o ran Cymru amnewidiwyd adran 117(1) gan Ddeddf Traffig Ffyrdd 1991 adran 35(6) fel y'i diwygiwyd gan Ddeddf Gwahaniaethu ar sail Anabledd 2005, Atodlen 1, paragraff 44(1), (2) a chan Ddeddf Rheoli Traffig 2004, adran 94(5).

(2) Mewnosodwyd adran 21A gan Ddeddf Gwahaniaethu ar sail Anabledd 2005, adran 9.

(3) Mewnosodwyd is-adran (1A) gan Ddeddf Gwahaniaethu ar sail Anabledd 2005, Atodlen 1, paragraff 44.

(1) 1984 (c.27); in relation to Wales section 117(1) was substituted by the Road Traffic Act 1991 section 35(6) and amended by the Disability Discrimination Act 2005, Schedule 1, paragraph 44(1), (2) and by the Traffic Management Act 2004, section 94(5).

(2) Section 21A was inserted by the Disability Discrimination Act 2005, section 9.

(3) Subsection (1A) was inserted by the Disability Discrimination Act 2005, Schedule 1, paragraph 44.

Rhyddhau cerbydau a ataliwyd rhag symud

9.—(1) Dim ond drwy neu o dan gyfarwyddyd person a awdurdodwyd gan awdurdod gorfodi i roi cyfarwyddyd o'r fath y caniateir rhyddhau cerbyd y gosodwyd dyfais atal rhag symud arno yn unol â rheoliad 7 oddi wrth y ddyfais honno.

(2) Yn ddarostyngedig i baragraff (1), rhyddheir cerbyd o'r fath oddi wrth y ddyfais pan delir, drwy unrhyw un o'r dulliau a bennir yn yr hysbysiad a osodwyd ar y cerbyd o dan reoliad 7(2)—

- (a) y tâl cosb sy'n daladwy ynglŷn â'r tramgwydd parcio ;
- (b) y cyfryw dâl ynglŷn â'r rhyddhau a all fod yn ofynnol gan yr awdurdod gorfodi.

RHAN 4

DARPARIAETHAU ARIANNOL

Addasu adran 55 o Ddeddf Rheoleiddio Traffig Ffyrdd 1984

10.—(1) Bydd adran 55 o Ddeddf Rheoleiddio Traffig Ffyrdd 1984(1) yn gymwys o ran incwm a gwariant awdurdodau gorfodi mewn cysylltiad â'u swyddogaethau o dan Ran 6 o Ddeddf 2004 ynghylch tramgwyddau parcio, yn ddarostyngedig i'r addasiadau canlynol.

(2) Yn lle is-adran (1) rhodder—

"(1) A local authority in Wales which is an enforcement authority shall keep an account—

- (a) of its income and expenditure in respect of any designated parking places in its area which are not in a civil enforcement area;
- (b) of its income and expenditure (otherwise than as an enforcement authority) in respect of designated parking places in its area which are in a civil enforcement area; and
- (c) of its income and expenditure in connection with its functions as an enforcement authority in relation to parking contraventions within paragraph 4 of Schedule 7 to the 2004 Act."

(3) Yn lle is-adran (3A) rhodder—

Release of immobilised vehicles

9.—(1) A vehicle to which an immobilisation device has been fixed in accordance with regulation 7 may only be released from that device by or under the direction of a person authorised by the enforcement authority to give such a direction.

(2) Subject to paragraph (1), such a vehicle must be released from the device on payment in any manner specified in the notice fixed to the vehicle under regulation 7(2) of—

- (a) the penalty charge payable in respect of the parking contravention;
- (b) such charge in respect of the release as may be required by the enforcement authority.

PART 4

FINANCIAL PROVISIONS

Modification of section 55 of the Road Traffic Regulation Act 1984

10.—(1) Section 55 of the Road Traffic Regulation Act 1984(1) applies in relation to the income and expenditure of enforcement authorities in connection with their functions under Part 6 of the 2004 Act in relation to parking contraventions, subject to the following modifications.

(2) For subsection (1) there is substituted—

"(1) A local authority in Wales which is an enforcement authority must keep an account—

- (a) of its income and expenditure in respect of any designated parking places in its area which are not in a civil enforcement area;
- (b) of its income and expenditure (otherwise than as an enforcement authority) in respect of designated parking places in its area which are in a civil enforcement area; and
- (c) of its income and expenditure in connection with its functions as an enforcement authority in relation to parking contraventions within paragraph 4 of Schedule 7 to the 2004 Act."

(3) For subsection (3A) there is substituted—

(1) O ran Cymru, diwygiwyd adran 55 gan Ddeddf Cyllid Llywodraeth Leol 1988 (p. 41), Atodlen 12, paragraff 42, gan Ddeddf Ffyrdd Newydd a Gwaith Stryd 1991 (p. 22), Atodlen 8, paragraff 46, gan Ddeddf Traffig Ffyrdd 1991, Atodlen 7, paragraff 5, Atodlen 8 a chan Ddeddf Rheoli Traffig 2004, adran 95.

(1) In relation to Wales, section 55 was amended by the Local Government Finance Act 1988 (c. 41), Schedule 12, paragraph 42, by the New Roads and Street Works Act 1991 (c. 22), Schedule 8, paragraph 46, by the Road Traffic Act 1991, Schedule 7, paragraph 5, Schedule 8 and by the, Traffic Management Act 2004, section 95.

"(3A) A local authority in Wales which is an enforcement authority shall after the end of each financial year send a copy of the account kept under subsection (1) to the Welsh Ministers."

(4) Yn is-adran (3B) yn lle "the end of" rhodder "the conclusion of the audit of the accounts of the body concerned for".

(5) Yn is-adran (10) ar ôl "in this section-" mewnosoder—

""the 2004 Act" means the Traffic Management Act 2004;

"enforcement authority" means an authority which is an enforcement authority for the purposes of Part 6 of the 2004 Act (pursuant to paragraphs 1(2), and 8(5) of Schedule 8) and references to the functions of an authority as an enforcement authority are to its functions under that Part of that Act;"

Gwargedau i'w cario ymlaen

11. Os oes, yn union cyn i'r Rheoliadau hyn ddod i rym, warged mewn cyfrif—

(a) a gedwir o dan adran 55 o Ddeddf Rheoleiddio Traffig Ffyrdd 1984 fel y'i haddaswyd o ran yr awdurdod hwnnw gan orchymyn a wnaed o dan Atodlen 3 i Ddeddf Traffig Ffyrdd 1991(1); a

(b) a gedwir gan awdurdod lleol,

bydd y gwarged yn cael ei gario ymlaen ac ymdrinnir ag ef fel gwarged sy'n codi o dan adran 55 fel y'i haddesir gan reoliad 10.

Dirymu Rheoliadau Gorfodi Sifil ar Dramgwyddau Parcio (Darpariaethau Cyffredinol) (Cymru) 2008

12. Mae Rheoliadau Gorfodi Sifil ar Dramgwyddau Parcio (Darpariaethau Cyffredinol) (Cymru) 2008(2) wedi eu dirymu.

"(3A) A local authority in Wales which is an enforcement authority must after the end of each financial year send a copy of the account kept under subsection (1) to the Welsh Ministers."

(4) In subsection (3B) for the words "the end of" there is substituted "the conclusion of the audit of the accounts of the body concerned for".

(5) In subsection (10) after "in this section—" there is inserted—

""the 2004 Act" means the Traffic Management Act 2004;

"enforcement authority" means an authority which is an enforcement authority for the purposes of Part 6 of the 2004 Act (pursuant to paragraphs 1(2), and 8(5) of Schedule 8) and references to the functions of an authority as an enforcement authority are to its functions under that Part of that Act;"

Surpluses to be carried forward

11. Where, immediately before the coming into force of these Regulations there is a surplus in an account which is—

(a) kept under section 55 of the Road Traffic Regulation Act 1984 as modified in relation to that authority by an order made under Schedule 3 to the Road Traffic Act 1991(1); and

(b) kept by a local authority,

the surplus must be carried forward and treated as a surplus arising under section 55 as it is modified by regulation 10.

Revocation of the Civil Enforcement of Parking Contraventions (General Provisions) (Wales) Regulations 2008

12. The Civil Enforcement of Parking Contraventions (General Provisions) (Wales) Regulations 2008 (2) are revoked.

Ieuan Wyn Jones

Y Gweinidog dros yr Economi a Thrafnidiaeth, un o Weinidogion Cymru.

29 Ebrill 2008

Minister for the Economy and Transport, one of the Welsh Ministers

29 April 2008

(1) O ran Cymru, diwygiwyd Atodlen 3 gan O.S. 1996/500.

(2) O.S. 2008/614 (Cy.66).

(1) In relation to Wales, Schedule 3 was amended by S.I. 1996/500.

(2) S.I. 2008/614 (W.66).

OFFERYNNAU STATUDOL
CYMRU

2008 Rhif 1214 (Cy.122)

TRAFFIG FFYRDD, CYMRU

Rheoliadau Gorfodi Sifil ar
Dramgwyddau Parcio
(Darpariaethau Cyffredinol)
(Cymru) (Rhif 2) 2008

WELSH
STATUTORY INSTRUMENTS

2008 No. 1214 (W.122)

ROAD TRAFFIC, WALES

The Civil Enforcement of Parking
Contraventions (General
Provisions) (Wales) (No. 2)
Regulations 2008

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