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OFFERYNNAU STATUDOL  
CYMRU

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**2008 Rhif 2499 (Cy.217)**

**ARDRETHU A PHRSIO,  
CYMRU**

Rheoliadau Ardrethu Annomestig  
(Eiddo Heb ei Feddiannu) (Cymru)  
2008

**NODYN ESBONIADOL**

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

Mae adran 45 o Ddeddf Cyllid Llywodraeth Leol ("Deddf 1988") yn darparu bod perchnogion eiddo annomestig gwag yn atebol i dalu ardrethi annomestig os yw amodau penodol yn gymwys.

Mae'r Rheoliadau hyn yn ailddeddfu Rheoliadau Ardrethu Annomestig (Eiddo Heb ei Feddiannu) 1989 ("Rheoliadau 1989") gyda diwygiadau. Yn ogystal â diwygiadau drafftio, yr unig newid o sylwedd yw'r eithriad newydd a gynhwysir ar gyfer cwmnïau yn nwylo gweinyddwyr (rheoliad 4(h)).

Un o'r amodau a osodir gan adran 45 o Ddeddf 1988 yw bod rhaid i'r eiddo ddod o fewn dosbarth a ragnodir gan reoliadau a wneir, o ran Cymru, gan Weinidogion Cymru.

Mae rheoliad 3 yn rhagnodi'r dosbarth hwnnw fel un a ffurfir gan bob adeilad neu ran o adeilad ac eithrio'r sawl a restrir yn rheoliad 4. Mae'r eithriadau hynny yn cynnwys pob eiddo a fu'n wag yn barhaus am dri mis neu lai.

Mae rheoliad 5 a 6 yn cynnwys darpariaethau tebyg i'r darpariaethau yn Rheoliadau 1989 sy'n ymwneud ag achosion pan ystyrir y bydd eiddo wedi bod yn wag yn barhaus am dri neu chwe mis neu lai a chymhwysiad y Rheoliadau at eiddo sydd heb erioed ei feddiannu.

Dirymwyd Rheoliadau 1989 o ran eu cymhwyso i Loegr gan O.S. 2008/386 ac mae'r Rheoliadau hyn yn dirymu Rheoliadau 1989 o ran eu cymhwyso i Gymru.

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WELSH STATUTORY  
INSTRUMENTS

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**2008 No. 2499 (W.217)**

**RATING AND VALUATION,  
WALES**

The Non-Domestic Rating  
(Unoccupied Property) (Wales)  
Regulations 2008

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Section 45 of the Local Government Finance Act 1988 ("the 1988 Act") provides that owners of empty non-domestic properties are liable to pay non-domestic rates if certain conditions apply.

These Regulations re-enact the Non-Domestic Rating (Unoccupied Property) Regulations 1989 ("the 1989 Regulations") with amendments. In addition to drafting amendments the only change of substance is the inclusion of a new exception for companies in administration (regulation 4(l)).

One of the conditions stipulated by section 45 of the 1988 Act is that the property must fall within a class prescribed by regulations made, in relation to Wales, by the Welsh Ministers.

Regulation 3 prescribes that class as consisting of all buildings or parts of buildings except those listed in regulation 4. Those exceptions include all properties which have been continuously empty for three months or less.

Regulations 5 and 6 contain similar provisions to those in the 1989 Regulations dealing with when a property will be considered to have been continuously empty for three or six months or less and the application of the Regulations to properties which have never been occupied.

The 1989 Regulations were revoked in their application to England by S.I. 2008/386 and these Regulations revoke the 1989 Regulations in their application to Wales.

Mae Asesiad o Effaith Reoleiddiol wedi'i baratoi mewn cysylltiad â'r Rheoliadau hyn. Gellir cael copi oddi <http://www.cynulliadcymru.org/bus-home/bus-guide-docs-pub/bus-business-documents/doc-laid.htm> wrth

A regulatory impact assessment has been prepared in connection with these Regulations. A copy can be obtained at <http://www.assemblywales.org/bus-home/bus-guide-docs-pub/bus-business-documents/doc-laid.htm>.

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**ARDRETHU A PHRISIO,  
CYMRU**

**Rheoliadau Ardrethu Annomestig  
(Eiddo Heb ei Feddiannu) (Cymru)  
2008**

*Gwnaed* 20 Medi 2008  
*Gosodwyd gerbron*  
*Cynulliad Cenedlaethol Cymru* 23 Medi 2008  
*Yn dod i rym* 1 Tachwedd 2008

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adrannau 45(1)(d), (9) a (10), 143(2) a 146(6) o Ddeddf Cyllid Llywodraeth Leol 1988(1) ac sydd bellach wedi'u breinio ynddynt hwy(2), yn gwneud y Rheoliadau a ganlyn:

**Enwi, cymhwyso a chychwyn**

1.–(1) Enw'r Rheoliadau hyn yw Rheoliadau Ardrethu Annomestig (Eiddo Heb ei Feddiannu) (Cymru) 2008 a deuant i rym ar 1 Tachwedd 2008.

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

**Dehongli**

2. Yn y Rheoliadau hyn–

ystyr "y Ddeddf" ("*the Act*") yw Deddf Cyllid Llywodraeth Leol 1988;

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- (1) 1988 p.41; diwygiwyd adran 45(1)(d), a mewnosodwyd adrannau (9) a (10), gan Ddeddf Llywodraeth Leol a Thai 1989 (p.42), Atodlen 5, paragraffau 23(2) a (3) a 79(3).
- (2) Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol a geir yn Neddf Cyllid Llywodraeth Leol 1988 o ran Cymru i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672, erthygl 2, Atodlen 1). Breiniwyd swyddogaethau Cynulliad Cenedlaethol Cymru yng Ngweinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (p.32) a pharagraff 30 o Atodlen 11 iddi.

**2008 No. 2499 (W.217)**

**RATING AND VALUATION,  
WALES**

**The Non-Domestic Rating  
(Unoccupied Property) (Wales)  
Regulations 2008**

*Made* 20 September 2008  
*Laid before the National*  
*Assembly for Wales* 23 September 2008  
*Coming into force* 1 November 2008

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by sections 45(1)(d), (9) and (10), 143(2) and 146(6) of the Local Government Finance Act 1988(1) and now vested in them(2), make the following Regulations:

**Title, application and commencement**

1.–(1) The title of these Regulations is The Non-Domestic Rating (Unoccupied Property) (Wales) Regulations 2008 and they come into force on 1 November 2008.

(2) These Regulations apply in relation to Wales.

**Interpretation**

2. In these Regulations–

"the Act" ("*y Ddeddf*") means the Local Government Finance Act 1988;

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- (1) 1988 c.41; section 45(1)(d) was amended, and subsections (9) and (10) were inserted, by the Local Government and Housing Act 1989 (c.42), Schedule 5, paragraphs 23(2) and (3) and 79(3).
- (2) The functions of the Secretary of State contained in the Local Government Finance Act 1988 in relation to Wales were transferred to the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672, article 2, Schedule 1). The functions of the National Assembly for Wales were vested in the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c.32).

ystyr "hereditament annomestig perthnasol" ("*relevant non-domestic hereditament*") yw unrhyw hereditament annomestig a ffurfir gan unrhyw adeilad neu ran o unrhyw adeilad, ynghyd ag unrhyw dir a ddefnyddir fel arfer neu y bwriedir ei ddefnyddio at ddibenion yr adeilad neu'r rhan;

ystyr "hereditament diwydiannol cymwys" ("*qualifying industrial hereditament*") yw unrhyw hereditament, heblaw hereditament manwerthol, mewn perthynas ag ef y mae pob adeilad yn yr hereditament yn—

- (a) un sydd wedi ei adeiladu neu ei addasu at ei ddefnyddio wrth gynnal masnach neu fusnes; a
- (b) un sydd wedi ei adeiladu neu ei addasu at ddefnyddio neu ragor o'r dibenion a ganlyn, neu un neu ragor o'r dibenion hynny ac un neu ragor o ddibenion cysylltiedig ag ef neu hwy—
  - (i) gweithgynhyrchu, atgyweirio neu addasu nwyddau neu ddeunyddiau, neu roi nwyddau neu ddeunyddiau drwy unrhyw broses;
  - (ii) storio (gan gynnwys storio neu drafod nwyddau wrth eu dosbarthu);
  - (iii) gweithio neu brosesu mwynau; a
  - (iv) cynhyrchu trydan; ac

ystyr "hereditament manwerthol" ("*retail hereditament*") yw unrhyw hereditament lle y mae unrhyw adeilad neu ran o adeilad sydd yn yr hereditament wedi ei adeiladu neu ei addasu at ddiben darpariaeth fanwerthol—

- (a) nwyddau, neu
- (b) gwasanaethu, heblaw storio ar gyfer gwasanaethau dosbarthu, pan fo'r gwasanaethau i'w darparu ar yr hereditament neu oddi wrtho.

#### **Hereditamentau a ragnodir at ddibenion adran 45(1)(d) o'r Ddeddf.**

3. Mae'r dosbarth ar hereditamentau a ragnodir at ddibenion adran 45(1)(d) o'r Ddeddf yn cynnwys pob hereditament annomestig perthnasol heblaw y rhai a ddisgrifir yn rheoliad 4.

#### **Hereditamentau nas rhagnodir at ddibenion adran 45(1)(d) o'r Ddeddf.**

4. Yr hereditamentau annomestig perthnasol a ddisgrifir yn y rheoliad hwn yw unrhyw hereditament—

- (a) y mae'r cyfan ohono, yn ddarostyngedig i reoliad 5, wedi bod heb ei feddiannu am gyfnod parhaus nad yw'n fwy na thri mis;

"qualifying industrial hereditament" ("*hereditament diwydiannol cymwys*") means any hereditament, other than a retail hereditament, in relation to which all buildings comprised in the hereditament are—

- (a) constructed or adapted for use in the course of a trade or business; and
- (b) constructed or adapted for use for one or more of the following purposes, or one or more such purposes and one or more purposes ancillary thereto—
  - (i) the manufacture, repair or adaptation of goods or materials, or the subjection of goods or materials to any process;
  - (ii) storage (including the storage or handling of goods in the course of their distribution);
  - (iii) the working or processing of minerals; and
  - (iv) the generation of electricity;

"relevant non-domestic hereditament" ("*hereditament annomestig perthnasol*") means any non-domestic hereditament consisting of, or of part of, any building, together with any land ordinarily used or intended for use for the purposes of the building or part; and

"retail hereditament" ("*hereditament masnachol*") means any hereditament where any building or part of a building comprised in the hereditament is constructed or adapted for the purpose of the retail provision of—

- (a) goods, or
- (b) services, other than storage for distribution services, where the services are to be provided on or from the hereditament.

#### **Hereditaments prescribed for the purposes of section 45(1)(d) of the Act**

3. The class of non-domestic hereditaments prescribed for the purposes of section 45(1)(d) of the Act consists of all relevant non-domestic hereditaments other than those described in regulation 4.

#### **Hereditaments not prescribed for the purposes of section 45(1)(d) of the Act**

4. The relevant non-domestic hereditaments described in this regulation are any hereditament—

- (a) the whole of which, subject to regulation 5, has been unoccupied for a continuous period not exceeding three months;

- (b) sy'n hereditament diwydiannol cymwys ac y mae'r cyfan ohono, yn ddarostyngedig i reoliad 5, wedi bod heb ei feddiannu am gyfnod parhaus nad yw'n fwy na chwe mis;
- (c) y mae ei berchennog wedi ei wahardd gan y gyfraith rhag ei feddiannu neu rhag caniatáu iddo gael ei feddiannu;
- (ch) a gedwir yn wag oherwydd cam a gymerir gan y Goron neu ar ei rhan neu gan unrhyw awdurdod lleol neu gyhoeddus neu ar eu rhan gyda golwg ar wahardd yr hereditament rhag cael ei feddiannu neu ar ei gaffael;
- (d) sy'n destun hysbysiad cadw adeilad o fewn ystyr Deddf Cynllunio (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1990(1) neu a cynhwysir mewn rhestr a luniwyd o dan adran 1 o'r Ddeddf honno;
- (dd) a gynhwysir yn yr Atodlen o henebion a luniwyd o dan adran 1 o Ddeddf Henebion a Mannau Archaeolegol 1979(2);
- (e) y mae ei werth ardrethol yn llai na £2,200;
- (f) y mae gan ei berchennog hawl i feddiannu yn unig yn rhinwedd ei swydd fel cynrychiolydd personol person ymadawedig;
- (ff) pan fo, o ran ystâd y perchennog, orchymyn methdal o fewn ystyr adran 381(2) o Ddeddf Ansofedd 1986(3);
- (g) y mae ei berchennog â hawl i feddiannu yn rhinwedd ei swydd fel ymddiriedolwr o dan weithred gymodi y mae Deddf Gweithredoedd Cymodi 1914(4) yn gymwys iddi;
- (ng) y mae ei berchennog yn gwmni sy'n ddarostyngedig i orchymyn dirwyn i ben a wneir o dan Ddeddf Ansofedd 1986 neu a ddygir i ben yn wirfoddol o dan y Ddeddf honno;
- (h) y mae ei berchennog yn gwmni yn nwylo gweinyddwyr o fewn yr ystyr ym mharagraff 1 o Atodlen B1 i Ddeddf Ansofedd 1986 neu sy'n ddarostyngedig i orchymyn gweinyddu a wnaed o dan y darpariaethau gweinyddu blaenorol o fewn ystyr erthygl 3 o Orchymyn Deddf Menter 2002 (Cychwyn Rhif 4 a Darpariaethau Trosiannol ac Arbedion) 2003 (5);
- (b) which is a qualifying industrial hereditament and the whole of which, subject to regulation 5, has been unoccupied for a continuous period not exceeding six months;
- (c) whose owner is prohibited by law from occupying it or allowing it to be occupied;
- (d) which is kept vacant by reason of action taken by or on behalf of the Crown or any local or public authority with a view to prohibiting the occupation of the hereditament or to acquiring it;
- (e) which is the subject of a building preservation notice within the meaning of the Planning (Listed Buildings and Conservation Areas) Act 1990(1) or is included in a list compiled under section 1 of that Act;
- (f) which is included in the Schedule of monuments compiled under section 1 of the Ancient Monuments and Archaeological Areas Act 1979(2);
- (g) whose rateable value is less than £2,200;
- (h) whose owner is entitled to possession only in his or her capacity as the personal representative of a deceased person;
- (i) where, in respect of the owner's estate, there subsists a bankruptcy order within the meaning of section 381(2) of the Insolvency Act 1986(3);
- (j) whose owner is entitled to possession in his or her capacity as trustee under a deed of arrangement to which the Deeds of Arrangement Act 1914(4) applies;
- (k) whose owner is a company which is subject to a winding-up order made under the Insolvency Act 1986 or which is being wound up voluntarily under that Act;
- (l) whose owner is a company in administration within the meaning of paragraph 1 of Schedule B1 to the Insolvency Act 1986 or is subject to an administration order made under the former administration provisions within the meaning of article 3 of the Enterprise Act 2002 (Commencement No. 4 and Transitional Provisions and Savings) Order 2003(5);

(1) 1990 p.9. Diffinnir "Building preservation notice" (hysbysiad cadw adeilad) yn adran 91(1).

(2) 1979 p.46.

(3) 1986 p.45.

(4) 1914 p.47.

(5) O.S. 2003/2093 (C.85), y mae diwygiadau iddo nad ydynt yn gymwys i'r Rheoliadau hyn.

(1) 1990 c.9. "Building preservation notice" is defined in section 91(1).

(2) 1979 c.46.

(3) 1986 c.45.

(4) 1914 c.47.

(5) S.I. 2003/2093 (C.85), to which there are amendments not relevant to these Regulations.

- (i) y mae ei berchennog â hawl i feddiannu yn rhinwedd ei swydd fel diddymwr yn rhinwedd gorchymyn a wnaed o dan adran 112 neu adran 145 o Ddeddf Ansolfedd 1986.

- (m) whose owner is entitled to possession in his or her capacity as liquidator by virtue of an order made under section 112 or section 145 of the Insolvency Act 1986.

### **Meddiannu parhaus**

5. Mae hereditament sydd heb ei feddiannu ac a gaiff a feddiannu ar unrhyw ddiwrnod i'w drin fel petai heb ei feddiannu'n barhaus at ddibenion rheoliad 4(a) a (b) os bydd heb ei feddiannu eto pan ddaw cyfnod o lai na chwe wythnos, gan ddechrau ar y diwrnod hwnnw, i ben.

### **Continuous occupation**

5. A hereditament which has been unoccupied and becomes occupied on any day is to be treated as having been continuously unoccupied for the purposes of regulation 4(a) and (b) if it becomes unoccupied again on the expiration of a period of less than six weeks beginning with that day.

### **Hereditamentau sydd heb eu meddiannu o'r blaen**

6. At ddibenion rheoliad 4(a) a (b), mae hereditament sydd heb ei feddiannu o'r blaen i'w drin fel petai heb ei feddiannu—

- (a) ar y diwrnod a benderfynir o dan baragraff 8 o Atodlen 1 i Ddeddf yr Ardreth Gyffredinol 1967(1), neu ar y diwrnod a benderfynir o dan Atodlen 4A i'r Ddeddf(2), p'un bynnag o'r diwrnodau hynny a ddaw gyntaf; neu
- (b) pan na fo paragraff (a) yn gymwys, ar y diwrnod y dangosir yr hereditament gyntaf mewn rhestr ardrethu lleol.

### **Hereditaments not previously occupied**

6. For the purposes of regulation 4(a) and (b), a hereditament which has not previously been occupied is to be treated as becoming unoccupied—

- (a) on the day determined under paragraph 8 of Schedule 1 to the General Rate Act 1967(1), or on the day determined under Schedule 4A to the Act(2), whichever day first occurs; or
- (b) where paragraph (a) does not apply, on the day for which the hereditament is first shown in a local rating list.

### **Dirymu ac arbed**

7.—(1) Yn ddarostyngedig i baragraff (2), mae Rheoliadau Ardrethu Annomestig (Eiddo Heb ei Feddiannu) 1989(3) wedi eu dirymu o ran eu cymhwyso i Gymru.

(2) Mae'r Rheoliadau hynny yn parhau i fod yn gymwys at ddibenion cyfrifo atebolrwydd dros ardrethi o ran unrhyw ddiwrnod cyn 1 Tachwedd 2008.

### **Revocation and saving**

7.—(1) Subject to paragraph (2), the Non-Domestic Rating (Unoccupied Property) Regulations 1989(3) are revoked in their application to Wales.

(2) Those Regulations continue to apply for the purposes of calculating liability for rates in respect of any day before 1 November 2008.

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(1) 1967 p.9.

(2) Mewnosodwyd Atodlen 4A gan baragraff 36 o Atodlen 5 i Ddeddf Llywodraeth Leol a Thai 1989 (p.42).

(3) O.S. 1989/2261 a ddirymwyd o ran ei gymhwyso i Loegr gan O.S. 2008/386.

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(1) 1967 c.9.

(2) Schedule 4A was inserted by paragraph 36 of Schedule 5 to the Local Government and Housing Act 1989 (c.42).

(3) S.I. 1989/2261 which was revoked in its application to England by S.I. 2008/386.

*Brian Gibbons*

Y Gweinidog dros Gyfiawnder Cymdeithasol a  
Llywodraeth Leol, un o Weinidogion Cymru

Minister for Social Justice and Local Government, one  
of the Welsh Ministers

20 Medi 2008

20 September 2008

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**£5.00**

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ON