



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2009 Rhif 2983 (Cy.260)

2009 No. 2983 (W.260)

**LLYWODRAETH LEOL,
CYMRU**

**LOCAL GOVERNMENT,
WALES**

Rheoliadau Awdurdodau Lleol
(Trefniadau Gweithrediaeth)
(Swyddogaethau a Chyfrifoldebau)
(Cymru) (Diwygio) 2009

The Local Authorities (Executive
Arrangements) (Functions and
Responsibilities) (Wales)
(Amendment) Regulations 2009

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Mae Rhan II o Ddeddf Llywodraeth Leol 2000 yn darparu i swyddogaethau awdurdod lleol gael eu cyflawni gan weithrediaeth awdurdod (y mae'n rhaid iddi fod ar un o'r ffurfiau a bennir yn adran 11(2) i (5) o'r Ddeddf honno) onid yw'r swyddogaethau hynny i beidio â bod yn gyfrifoldeb i weithrediaeth yr awdurdod. Mae Rheoliadau Awdurdodau Lleol (Trefniadau Gweithrediaeth) (Swyddogaethau a Chyfrifoldebau) (Cymru) 2007 (O.S. 2007/399 (Cy.45)) ("y Prif Reoliadau") yn pennu'r swyddogaethau hynny nad ydynt i fod yn gyfrifoldeb i weithrediaeth awdurdod neu sydd i fod yn gyfrifoldeb i weithrediaeth o'r fath i raddau cyfyngedig yn unig neu o dan amgylchiadau penodedig yn unig.

Part II of the Local Government Act 2000 provides for the discharge of a local authority's functions by an executive of an authority (which must take one of the forms specified in section 11(2) to (5) of that Act) unless those functions are not to be the responsibility of the authority's executive. The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 (S.I. 2007/399 (W.45)) ("the Principal Regulations") specify those functions that are not to be the responsibility of an authority's executive or are to be the responsibility of such an executive only to a limited extent or only in specified circumstances.

Mae'r Rheoliadau hyn yn diwygio'r Prif Reoliadau.

These Regulations amend the Principal Regulations.

Mae Atodlen 2 i'r Prif Reoliadau'n rhestru'r swyddogaethau hynny y caniateir iddynt fod (ond nad oes angen iddynt fod) yn gyfrifoldeb i weithrediaeth awdurdod. Mae rheoliad 4 o'r Rheoliadau hyn yn diwygio'r rhestr hon drwy fewnosod swyddogaethau penodedig o dan Ddeddf Priffyrdd 1980, Deddf Bywyd Gwyllt a Chefn Gwlad 1981 a Deddf Gamblo 2005. Effaith y diwygiadau hyn yw bod gan awdurdod lleol ddisgresiwn o ran a ydyw'r swyddogaethau o dan sylw i'w cael eu harfer gan y weithrediaeth.

Schedule 2 to the Principal Regulations lists those functions which may be (but need not be) the responsibility of an authority's executive. Regulation 4 of these Regulations amends this list by inserting specified functions under the Highways Act 1980, the Wildlife and Countryside Act 1981 and the Gambling Act 2005. The effect of these amendments is that a local authority has discretion as to whether the functions in question are exercised by the executive.

Mae rheoliad 5 yn diwygio'r Prif Reoliadau drwy ddefnyddio geiriau generig i gyfeirio at gynlluniau plant a phobl ifanc sydd i'w paratoi a'u cyhoeddi gan awdurdodau lleol yn unol â rheoliadau a wnaed o dan adran 26 o Ddeddf Plant 2004. Mae hefyd yn darparu bod yn rhaid i gynlluniau gwella hawliau tramwy beidio â bod yn gyfrifoldeb y weithrediaeth yn unig.

Regulation 5 amends the Principal Regulations by using generic wording to refer to the children and young people's plans to be prepared and published by local authorities in accordance with regulations made under section 26 of the Children Act 2004. It also provides that rights of way improvement plans must not be the sole responsibility of the executive.

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**Rheoliadau Awdurdodau Lleol
(Trefniadau Gweithrediaeth)
(Swyddogaethau a Chyfrifoldebau)
(Cymru) (Diwygio) 2009**

Gwnaed 10 Tachwedd 2009

*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 11 Tachwedd 2009

Yn dod i rym 2 Rhagfyr 2009

Mae Gweinidogion Cymru yn gwneud y Rheoliadau canlynol drwy arfer y pwerau a roddwyd i Gynulliad Cenedlaethol Cymru gan adrannau 13, 105 a 106 o Ddeddf Llywodraeth Leol 2000(1) ac a freiniwyd bellach ynddynt(2).

Enwi a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Awdurdodau Lleol (Trefniadau Gweithrediaeth) (Swyddogaethau a Chyfrifoldebau) (Cymru) (Diwygio) 2009 a deuant i rym ar 2 Rhagfyr 2009.

Diwygio

2. Diwygier Rheoliadau Awdurdodau Lleol (Trefniadau Gweithrediaeth) (Swyddogaethau a Chyfrifoldebau) (Cymru) 2007(3) fel a ganlyn.

3. Yn Rhan CH o Atodlen 1 (swyddogaethau nad ydynt i fod yn gyfrifoldeb i weithrediaeth awdurdod), hepgorer paragraff 18.

4. Yn Atodlen 2 (swyddogaethau y caniateir iddynt fod, ond nad oes angen iddynt fod, yn gyfrifoldeb gweithrediaeth awdurdod)–

(a) yn lle paragraff 18 rhodder–

(1) 2000 p.22.

(2) Mae pwerau Cynulliad Cenedlaethol Cymru bellach wedi'u breinio yng Ngweinidogion Cymru yn rhinwedd paragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).

(3) O.S. 2007/399 (Cy. 45).

2009 No. 2983 (W.260)

**LOCAL GOVERNMENT,
WALES**

**The Local Authorities (Executive
Arrangements) (Functions and
Responsibilities) (Wales)
(Amendment) Regulations 2009**

Made 10 November 2009

*Laid before the National
Assembly for Wales* 11 November 2009

Coming into force 2 December 2009

The Welsh Ministers make the following Regulations in exercise of the powers conferred on the National Assembly for Wales by sections 13, 105 and 106 of the Local Government Act 2000(1) and now vested in them(2).

Title and commencement

1. The title of these Regulations is The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) (Amendment) Regulations 2009 and they come into force on 2 December 2009.

Amendment

2. The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007(3) are amended as follows.

3. In Part D of Schedule 1 (functions not to be the responsibility of an authority's executive), omit paragraph 18.

4. In Schedule 2 (functions which may be, but need not be, the responsibility of an authority's executive)–

(a) for paragraph 18 substitute–

(1) 2000 c.22.

(2) The powers of the National Assembly for Wales are now vested in the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

(3) S.I. 2007/399 (W. 45).

"18. Unrhyw un neu unrhyw rai o'r swyddogaethau canlynol o ran priffyrdd–

- (a) gwneud cytundebau ar gyfer gwneud gwaith priffyrdd(1);
- (b) y swyddogaethau a geir yn narpariaethau canlynol Rhan III o Ddeddf Priffyrdd 1980(2) (creu priffyrdd)–
 - (i) adran 25 – creu llwybrau troed, llwybrau ceffylau neu gilffyrdd cyfyngedig drwy gytundeb;
 - (ii) adran 26 – pwerau gorfodol ar gyfer creu llwybrau troed, llwybrau ceffylau neu gilffyrdd cyfyngedig;
- (c) y swyddogaethau a geir yn narpariaethau canlynol Rhan VIII o Ddeddf Priffyrdd 1980 (cau priffyrdd a gwyro priffyrdd etc)(3)–
 - (i) adran 116 – pŵer llysoedd ynadon i awdurdodi cau priffordd neu wyro priffordd;
 - (ii) adran 117 – cais am orchymyn o dan adran 116 ar ran person arall;
 - (iii) adran 118 – cau llwybrau troed, llwybrau ceffylau a chilffyrdd cyfyngedig;
 - (iv) adran 118ZA – cais am orchymyn diddymu llwybr cyhoeddus;
 - (v) adran 118A – cau llwybrau troed, llwybrau ceffylau a chilffyrdd cyfyngedig sy'n croesi rheilffyrdd;
 - (vi) adran 118B – cau priffyrdd penodol at ddibenion atal troseddau etc;
 - (vii) adran 118C – cais gan berchennog ysgol am orchymyn diddymu arbennig;
 - (viii) adran 119 – gwyro llwybrau troed, llwybrau ceffylau a chilffyrdd cyfyngedig;
 - (ix) adran 119ZA – cais am orchymyn gwyro llwybr cyhoeddus;
 - (x) adran 119A – gwyro llwybrau troed, llwybrau ceffylau a chilffyrdd cyfyngedig sy'n croesi rheilffyrdd;
 - (xi) adran 119B – gwyro priffyrdd penodol at ddibenion atal troseddau etc;

(1) Amnewidiwyd adran 278 o Ddeddf Priffyrdd 1980 (p.66) gan adran 23 o Ddeddf Ffyrdd Newydd a Gwaith Stryd 1991 (p.22).

(2) 1980 p.66.

(3) Mewnosodwyd adrannau 118ZA, 118B, 118C, 119ZA, 119B, 119C, 119D a 121B gan adran 57 o Ddeddf Cefn Gwlad a Hawliau Tramwy 2000 (p.37) a Rhan 1 o Atodlen 6 iddi. Mewnosodwyd adrannau 118A a 119A gan adran 47 o Ddeddf Trafniadaeth a Gwaith 1992 (p.42), ac Atodlen 2 iddi.

"18. Any of the following functions in respect of highways–

- (a) the making of agreements for the execution of highways works(1);
- (b) the functions contained in the following provisions of Part III of the Highways Act 1980 (2) (creation of highways)–
 - (i) section 25 – creation of footpath, bridleway or restricted byway by agreement;
 - (ii) section 26 – compulsory powers for creation of footpaths, bridleways or restricted byways;
- (c) the functions contained in the following provisions of Part VIII of the Highways Act 1980 (stopping up and diversion of highways etc)(3)–
 - (i) section 116 – power of magistrates' court to authorise stopping up or diversion of highway;
 - (ii) section 117 – application for order under section 116 on behalf of another person;
 - (iii) section 118 – stopping up of footpaths, bridleways and restricted byways;
 - (iv) section 118ZA – application for a public path extinguishment order;
 - (v) section 118A – stopping up of footpaths, bridleways and restricted byways crossing railways;
 - (vi) section 118B – stopping up of certain highways for purposes of crime prevention etc;
 - (vii) section 118C – application by proprietor of school for special extinguishment order;
 - (viii) section 119 – diversion of footpaths, bridleways and restricted byways;
 - (ix) section 119ZA – application for a public path diversion order;
 - (x) section 119A – diversion of footpaths, bridleways and restricted byways crossing railways;
 - (xi) section 119B – diversion of certain highways for purposes of crime prevention etc;

(1) Section 278 of the Highways Act 1980 (c.66) was substituted by section 23 of the New Roads and Street Works Act 1991 (c.22).

(2) 1980 c.66.

(3) Sections 118ZA, 118B, 118C, 119ZA, 119B, 119C, 119D and 121B were inserted by section 57 of, and Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c.37). Sections 118A and 119A were inserted by section 47 of, and Schedule 2 to, the Transport and Works Act 1992 (c.42).

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| <ul style="list-style-type: none"> (xii) adran 119C – cais gan berchennog ysgol am orchymyn gwyro arbennig; (xiii) adran 119D – gwyro priffyrdd penodol ar gyfer gwarchod safleoedd o ddiddordeb gwyddonol arbennig; (xiv) adran 120 – arfer pwerau i wneud gorchmynion diddymu a gwyro llwybrau cyhoeddus; (xv) adran 121B – cofrestr ceisiadau; (ch) y swyddogaethau a geir yn narpariaethau canlynol Rhan IX o Ddeddf Priffyrdd 1980 (ymyrraeth gyfreithlon ac anghyfreithlon â phriffyrdd a strydoedd)– (i) adran 130 – amddiffyn hawliau cyhoeddus; (ii) adran 139 – rheoli sgipiau adeiladwyr; (iii) adran 140 – symud sgipiau adeiladwyr i ffwrdd; (iv) adran 140A(1) – sgipiau adeiladwyr: ffioedd am feddiannu'r briffordd; (v) adran 142 – trwydded i blannu coed, llwyni etc mewn priffordd; (vi) adran 147 – pŵer i awdurdodi codi camfeydd etc ar lwybrau troed neu lwybrau ceffylau; (vii) adran 147ZA(2) – cytundebau ynghylch gwelliannau er lles personau sydd â phroblemau symudedd; (viii) adran 149 – symud pethau a adawyd ar briffyrdd sy'n peri niwsans etc; (ix) adran 169 – rheoli sgaffaldiau ar briffyrdd; (x) adran 171 – rheoli gosod deunyddiau adeiladu ar strydoedd a gwneud gwaith cloddio mewn strydoedd; (xi) adran 171A(3) a rheoliadau a wneir o dan yr adran honno – gwaith o dan adran 169 neu adran 171: tâl am feddiannu'r briffordd; (xii) adran 172 – palisau sydd i'w codi yn ystod adeiladu etc; (xiii) adran 173 – palisau i'w codi'n ddiogel; | <ul style="list-style-type: none"> (xii) section 119C – application by proprietor of school for special diversion order; (xiii) section 119D – diversion of certain highways for protection of sites of special scientific interest; (xiv) section 120 – exercise of powers of making public path extinguishment and diversion orders; (xv) section 121B – register of applications; (d) the functions contained in the following provisions of Part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets)– (i) section 130 – protection of public rights; (ii) sections 139 – control of builders' skips; (iii) section 140 – removal of builders' skips; (iv) section 140A(1) – builders' skips: charges for occupation of the highway; (v) section 142 – licence to plant trees, shrubs etc in a highway; (vi) section 147 – power to authorise erection of stiles etc on footpath or bridleway; (vii) section 147ZA(2) – agreements relating to improvements for benefit of persons with mobility problems; (viii) section 149 – removal of things so deposited on highways as to be a nuisance etc; (ix) section 169 – control of scaffolding on highways; (x) section 171 – control of deposit of building materials and making of excavations in streets; (xi) section 171A(3) and regulations made under that section – works under s169 or s171: charge for occupation of the highway; (xii) section 172 – hoardings to be set up during building etc; (xiii) section 173 – hoardings to be securely erected; |
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(1) Mewnosodwyd adran 140A gan Ddeddf Ffyrdd Newydd a Gwaith Stryd 1991 (p.22) (adran 168 a Rhan 1 o Atodlen 8).

(2) Mewnosodwyd adran 147ZA gan adran 69(3) o Ddeddf Cefn Gwlad a Hawliau Tramwy 2000 (p.37).

(3) Mewnosodwyd adran 171A gan Ddeddf Ffyrdd Newydd a Gwaith Stryd 1991 (p.22) (adran 168 a Rhan 1 o Atodlen 8).

(1) Section 140A was inserted by the New Roads and Street Works Act 1991 (c.22) (section 168 and Part 1 of Schedule 8).

(2) Section 147ZA was inserted by section 69(3) of the Countryside and Rights of Way Act 2000 (c.37).

(3) Section 171A was inserted by the New Roads and Street Works Act 1991 (c.22) (section 168 and Part 1 of Schedule 8).

- (xiv) adran 178 – cyfyngu ar osod rheiliau, trawstiau etc dros briffyrdd;
- (xv) adran 179 – rheoli adeiladu selerydd etc o dan strydoedd;
- (xvi) adran 180 – rheoli mynedfeydd i selerydd etc o dan strydoedd, a goleuadau palmentydd ac awryddion;
- (d) arfer swyddogaethau o dan adran 34 o Ddeddf Bywyd Gwyllt a Chefn Gwlad 1981(1) (gorchmynion calchbalmentydd); ac
- (dd) arfer swyddogaethau o dan adran 53 o Ddeddf Bywyd Gwyllt a Chefn Gwlad 1981(2) (dyletswydd i adolygu mapiau a datganiadau diffiniol yn barhaus).";

(b) yn lle paragraff 24 rhodder–

"24. Swyddogaethau o ran gamblo o dan ddarpariaethau canlynol Deddf Gamblo 2005(3)–

- (a) adran 29 – gwybodaeth gan awdurdod trwyddedu;
- (b) adran 30 – cyfnewid arall o wybodaeth;
- (c) adran 166 – penderfyniad i beidio â dyroddi trwyddedau casino;
- (ch) adran 212 a rheoliadau a wneir o dan yr adran honno – ffioedd;
- (d) adran 284 – tynnu ymaith esemptiad;
- (dd) adran 304 – personau awdurdodedig;
- (e) adran 346 – erlyniadau gan awdurdod trwyddedu;
- (f) adran 349 – polisi trwyddedu tair blynedd;
- (ff) adran 350 – cyfnewid gwybodaeth;
- (g) Rhan 5 o Atodlen 11– cofrestru gydag awdurdod lleol."

5. Yn Atodlen 3 (swyddogaethau nad ydynt i fod yn gyfrifoldeb i weithrediaeth awdurdod yn unig)–

- (a) yng ngholofn (1) yn lle "Y Cynllun Addysg Sengl" rhodder "Y Cynllun Plant a Phobl Ifanc";

- (xiv) section 178 – restriction on placing of rails, beams etc over highways;
- (xv) section 179 – control of construction of cellars etc under street;
- (xvi) section 180 – control of openings into cellars etc under streets, and pavement lights and ventilators;
- (e) exercising functions under section 34 of the Wildlife and Countryside Act 1981(1) (limestone pavement orders); and
- (f) exercising functions under section 53 of the Wildlife and Countryside Act 1981(2) (duty to keep definitive map and statement under continuous review).";

(b) for paragraph 24 substitute–

"24. Functions in respect of gambling under the following provisions of the Gambling Act 2005(3)–

- (a) section 29 – licensing authority information;
- (b) section 30 – other exchange of information;
- (c) section 166 – resolution not to issue casino licences;
- (d) section 212 and regulations made under that section – fees;
- (e) section 284 – removal of exemption;
- (f) section 304 – authorised persons;
- (g) section 346 – prosecutions by licensing authority;
- (h) section 349 – three-year licensing policy;
- (i) section 350 – exchange of information;
- (j) Part 5 of Schedule 11 – registration with local authority."

5. In Schedule 3 (functions not to be the sole responsibility of an authority's executive)–

- (a) in column (1) for "Single Education Plan" substitute "Children and Young People's Plan";

(1) 1981 p.69. Diwygiwyd adran 34 gan baragraff 83 o Atodlen 11 i Ddeddf yr Amgylchedd Naturiol a Chymunedau Gwledig 2006 (p.16). Drwy adran 27AA o Ddeddf 1981 mae adran 34 yn cael effaith fel pe bai cyfeiriadau at Natural England yn gyfeiriadau at Gyngor Cefn Gwlad Cymru.

(2) Diwygiwyd adran 53 gan Ddeddf Cefn Gwlad a Hawliau Tramwy 2000 (p.37) (adran 51 a Rhan 1 o Atodlen 5) a Deddf yr Amgylchedd Naturiol a Chymunedau Gwledig 2006 (p.16) (adran 70).

(3) 2005 p.19.

(1) 1981 c.69. Section 34 was amended by paragraph 83 of Schedule 11 to the Natural Environment and Rural Communities Act 2006 (c.16). By section 27AA of the 1981 Act section 34 has effect as if references to Natural England were references to the Countryside Council for Wales.

(2) Section 53 was amended by the Countryside and Rights of Way Act 2000 (c.37) (section 51 and Part 1 of Schedule 5) and the Natural Environment and Rural Communities Act 2006 (c.16) (section 70).

(3) 2005 c.19.

- (b) yng ngholofn (2) yn lle "Rheoliadau'r Cynllun Addysg Sengl (Cymru) 2006 (O.S. 2006/877 (Cy. 82))" rhodder "Rheoliadau a wnaed o dan adran 26 o Ddeddf Plant 2004(1)";
- (c) ar y diwedd—
- (i) yng ngholofn (1), mewnosoder "Y Cynllun Gwella Hawliau Tramwy";
- (ii) yng ngholofn (2) mewn perthynas â'r cofnod hwnnw yng ngholofn (1), mewnosoder "Adran 60 o Ddeddf Cefn Gwlad a Hawliau Tramwy 2000(2)".

- (b) in column (2) for "The Single Education Plan (Wales) Regulations 2006 (S.I. 2006/877 (W. 82))" substitute "Regulations made under section 26 of the Children Act 2004(1)";
- (c) at the end—
- (i) in column (1), insert "Rights of Way Improvement Plan";
- (ii) in column (2) in relation to that entry in column (1), insert "Section 60 of the Countryside and Rights of Way Act 2000(2)".

Brian Gibbons

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

10 Tachwedd 2009

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

10 November 2009

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(1) 2004 p.31.

(2) 2000 p.37.

(1) 2004 c.31.

(2) 2000 c.37.

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