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OFFERYNNAU STATUDOL  
CYMRU

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WELSH STATUTORY  
INSTRUMENTS

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**2010 Rhif 1395 (Cy.124)**

**2010 No. 1395 (W.124)**

**LLYWODRAETH LEOL,  
CYMRU**

**LOCAL GOVERNMENT,  
WALES**

**TRWYDDEDAU A  
THRWYDDEDU, CYMRU**

**LICENCES AND LICENSING,  
WALES**

Gorchymyn Deddf Plismona a  
Throsedd 2009 (Darpariaethau  
Trosiannol ac Arbed) (Cymru)  
2010

The Policing and Crime Act 2009  
(Transitional and Saving  
Provisions) (Wales) Order  
2010

**NODYN ESBONIADOL**

**EXPLANATORY NOTE**

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

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

Mae'r Gorchymyn hwn yn cynnwys darpariaethau trosiannol ac arbed o ran darpariaethau Deddf Plismona a Throsedd 2009 ynglŷn â lleoliadau adloniant rhywiol. Yn fras, bydd clybiau dawnsio glin presennol sydd â thrwydded i'r fangre neu dystysgrif i fangre'r clwb o dan Ddeddf Trwyddedu 2003, y mae'n gyfreithlon i ddarparu adloniant o'r fath odani, yn parhau i allu gweithredu am flwyddyn ar ôl i awdurdodau lleol fabwysiadu darpariaethau 2009 neu, os bydd ar ôl hynny, tan benderfynu unrhyw gais a gyflwynwyd yn ystod y flwyddyn honno.

This Order contains transitional and saving provisions in respect of the provisions of the Policing and Crime Act 2009 relating to sexual entertainment venues. Broadly speaking, existing lap dancing clubs with a premises licence or club premises certificate under the Licensing Act 2003, under which it is lawful to provide such entertainment, will continue to be able to operate for one year after local authorities adopt the 2009 provisions or, if later, the determination of any application submitted during that year.

**2010 Rhif 1395 (Cy.124)**

**LLYWODRAETH LEOL,  
CYMRU**

**TRWYDDEDAU A  
THRWYDDEDU, CYMRU**

**Gorchymyn Deddf Plismona a  
Throsedd 2009 (Darpariaethau  
Trosiannol ac Arbed) (Cymru)  
2010**

*Gwnaed*

*4 Mai 2010*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd gan adrannau 27(11) a pharagraffau 3 a 5 o Atodlen 3 i Ddeddf Plismona a Throsedd 2009(1) yn gwneud y Gorchymyn a ganlyn:

**Enwi a chymhwyso**

1. Enw'r Gorchymyn hwn yw Gorchymyn Deddf Plismona a Throsedd 2009 (Darpariaethau Trosiannol ac Arbed) (Cymru) 2010 ac mae'n gymwys o ran Cymru.

**Dehongli**

2.–(1) Yn y Gorchymyn hwn–

mae i "adloniant perthnasol" yr ystyr a roddir i "*relevant entertainment*" ym mharagraff 2A o Atodlen 3 i Ddeddf 1982,

ystyr "yr ail ddiwrnod penodedig" ("*the second appointed day*") o ran ardal awdurdod lleol, yw'r diwrnod cyntaf ar ôl diwedd cyfnod o 6 mis sy'n dechrau ar y diwrnod sef y diwrnod penodedig cyntaf o ran yr ardal honno,

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(1) 2009 p. 26.

**2010 No. 1395 (W.124)**

**LOCAL GOVERNMENT,  
WALES**

**LICENCES AND LICENSING,  
WALES**

**The Policing and Crime Act 2009  
(Transitional and Saving  
Provisions) (Wales) Order  
2010**

*Made*

*4 May 2010*

The Welsh Ministers, in exercise of the powers conferred by section 27(11) and paragraphs 3 and 5 of Schedule 3 to the Policing and Crime Act 2009(1) make the following Order:

**Title and application**

1. The title of this Order is the Policing and Crime Act 2009 (Transitional and Saving Provisions) (Wales) Order 2010 and it applies in relation to Wales.

**Interpretation**

2.–(1) In this Order–

"the 2009 Act" ("*Deddf 2009*") means the Policing and Crime Act 2009,

"the 2003 Act" ("*Deddf 2003*") means the Licensing Act 2003(2),

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(1) 2009 c. 26.

(2) 2003 c.17.

mae i "awdurdod lleol" yr ystyr a roddir i "*local authority*" gan adran 2(5) o Ddeddf 1982,

ystyr "Deddf 2009" ("*the 2009 Act*") yw Deddf Plismona a Throsedd 2009,

ystyr "Deddf 2003" ("*the 2003 Act*") yw Deddf Trwyddedu 2003(1),

ystyr "Deddf 1982" ("*the 1982 Act*") yw Deddf Llywodraeth Leol (Darpariaethau Amrywiol) 1982(2),

ystyr "y diwrnod penodedig cyntaf" ("*the first appointed day*") o ran ardal awdurdod lleol, yw'r diwrnod y mae Atodlen 3 i Ddeddf 1982, fel y'i diwygiwyd gan adran 27 o Ddeddf 2009, yn dod i rym yn yr ardal honno o ganlyniad i benderfyniad yr awdurdod lleol o dan adran 2 o Ddeddf 1982 neu baragraff 2(2) o Atodlen 3 i Ddeddf 2009,

mae i "lleoliad adloniant rhywiol" (a chyfeiriadau at ddefnydd o'r fangre fel lleoliad o'r fath) yr ystyr a roddir i "*sexual entertainment venue*" ym mharagraff 2A o Atodlen 3 i Ddeddf 1982,

mae i "mangre" (ar wahân i'r ymadroddion "trwydded i fangre" a "tystysgrif mangre clwb") yr ystyr a roddir i "*premises*" gan baragraff 2A(14) o Atodlen 3 i Ddeddf 1982,

mae i "sinema ryw" yr ystyr a roddir i "*sex cinema*" ym mharagraff 3 o Atodlen 3 i Ddeddf 1982,

mae i "siop ryw" yr ystyr a roddir i "*sex shop*" ym mharagraff 4 o Atodlen 3 i Ddeddf 1982,

mae i "trwydded i fangre" (a "tystysgrif mangre clwb") yr ystyr a roddir i "*premises licence*" (a "club premises certificate") yn Neddf 2003,

ystyr "y trydydd diwrnod penodedig" ("*the third appointed day*"), o ran ardal awdurdod lleol, yw'r diwrnod cyntaf ar ôl diwedd cyfnod o 12 mis sy'n dechrau ar y diwrnod sef y diwrnod penodedig cyntaf o ran yr ardal honno.

"the 1982 Act" ("*Deddf 1982*") means the Local Government (Miscellaneous Provisions) Act 1982(1),

"the first appointed day" ("*y diwrnod penodedig cyntaf*") in relation to the area of a local authority, means the day on which Schedule 3 to the 1982 Act, as amended by section 27 of the 2009 Act, comes into force in that area in consequence of a resolution of the local authority under section 2 of the 1982 Act or paragraph 2(2) of Schedule 3 to the 2009 Act,

"local authority" ("*awdurdod lleol*") has the meaning given by section 2(5) of the 1982 Act,

"premises" ("*mangre*") (other than in the expressions "premises licence" and "club premises certificate") has the meaning given by paragraph 2A(14) of Schedule 3 to the 1982 Act,

"premises licence" ("*trwydded i fangre*") (and "club premises certificate" ("*tystysgrif mangre clwb*")) have the same meaning as in the 2003 Act,

"relevant entertainment" ("*adloniant perthnasol*") has the same meaning as in paragraph 2A of Schedule 3 to the 1982 Act,

"the second appointed day" ("*yr ail ddiwrnod penodedig*") in relation to the area of a local authority, means the first day after the end of the period of 6 months beginning with the day which is the first appointed day in relation to that area,

"sex cinema" ("*sinema ryw*") has the meaning given by paragraph 3 of Schedule 3 to the 1982 Act,

"sex shop" ("*siop ryw*") has the meaning given by paragraph 4 of Schedule 3 to the 1982 Act,

"sexual entertainment venue" ("*lleoliad adloniant rhywiol*") (and references to the use of the premises as such a venue) have the meaning given by paragraph 2A of Schedule 3 to the 1982 Act,

"the third appointed day" ("*y trydydd diwrnod penodedig*"), in relation to the area of a local authority, means the first day after the end of the period of 12 months beginning with the day which is the first appointed day in relation to that area.

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(1) 2003 p.17.

(2) 1982 p.30. Diwygiwyd Atodlen 3 i'r Ddeddf honno gan adran 52 o Ddeddf yr Heddlu a Chyfiawnder 2006 (p.48) a pharagraff 7 o Atodlen 14 iddi, adran 198 o Ddeddf Trwyddedu 2003 a pharagraffau 82 ac 85 o Atodlen 5 iddi, adran 24 o Ddeddf Sinemâu 1985 (p.13) a pharagraff 16 o Atodlen 2 iddi, adran 26(1) o Ddeddf yr Heddlu a Thystiolaeth Droseddol 1984 (p. 60), adrannau 111 a 174 o Ddeddf Troseddau Cyfundrefinol Difrifol a'r Heddlu 2005 (p. 15) a pharagraff 22 o Atodlen 7 iddi, O.S. 1984/447, O.S. 2005/886, O.S. 2009/2999, ac o ran bwrdeistrefi penodol yn Llundain, gan adran 12 o Ddeddf Cyngor Llundain Fwyaf (Pwerau Cyffredinol) 1986 (p. iv), adran 33 o Ddeddf Awdurdodau Lleol Llundain 2007 (p. ii) ac O.S. 2005/1541. Caiff ei diwygio hefyd gan adran 27 o Ddeddf Plismona a Throsedd 2009 (p. 26) o 6 Ebrill 2010 ymlaen o ran Lloegr ac o 8 Mai 2010 ymlaen o ran Cymru.

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(1) 1982 c.30. Schedule 3 to that Act has been amended by section 52 of, and paragraph 7 of Schedule 14 to, the Police and Justice Act 2006 (c.48), section 198 of, and paragraphs 82 and 85 of Schedule 5 to, the Licensing Act 2003, section 24 of, and paragraph 16 of Schedule 2 to, the Cinemas Act 1985 (c. 13), section 26(1) of the Police and Criminal Evidence Act 1984 (c. 60), sections 111 and 174 of, and paragraph 22 of Schedule 7 to, the Serious Organised Crime and Police Act 2005 (c. 15), S.I. 1984/447, S.I. 2005/886, S.I. 2009/2999, and in relation to certain London boroughs, by section 12 of the Greater London Council (General Powers) Act 1986 (c. iv), section 33 of the London Local Authorities Act 2007 (c. ii) and S.I. 2005/1541. It will also be amended by section 27 of the Policing and Crime Act 2009 (c. 26) as from the 6 April 2010 in relation to England and the 8 May 2010 in relation to Wales.

(2) Mae'r cyfeiriadau yn erthyglau 6(1), 7(1) ac 8(1) at gais i gael trwydded o dan Atodlen 3 i Ddeddf 1982 o ran lleoliad adloniant rhywiol yn cynnwys cyfeiriadau at gais i amrywio neu adnewyddu trwydded o dan Atodlen 3 i Ddeddf 1982 am siop ryw neu sinema ryw er mwyn galluogi defnyddio'r fangre o dan sylw fel lleoliad adloniant rhywiol.

(3) Nid yw'r cyfeiriadau yn erthyglau 6 i 8 at benderfynu cais yn cynnwys cyfeiriadau at benderfynu unrhyw apêl yn erbyn gwrthod caniatáu cais o'r fath.

### **Darpariaethau trosiannol ac arbed**

3. Mae erthyglau 4 i 11 yn gymwys os bydd Atodlen 3 i Ddeddf 1982, fel y'i diwygiwyd gan adran 27 o Ddeddf 2009, yn dod i rym yn ardal awdurdod lleol o ganlyniad i benderfyniad gan yr awdurdod o dan adran 2 o Ddeddf 1982 neu baragraff 2(2) o Atodlen 3 i Ddeddf 2009.

4. Nid yw paragraffau 28 a 29 o Atodlen 3 i Ddeddf 1982 (darpariaeth drosiannol bresennol) yn gymwys o ran lleoliadau adloniant rhywiol.

5.–(1) Mae'n gyfreithlon i unrhyw berson y mae ganddo yn union cyn y diwrnod penodedig cyntaf drwydded Deddf 2003 o ran unrhyw fangre ac sy'n defnyddio'r fangre fel lleoliad adloniant rhywiol o dan drwydded Deddf 2003, neu sy'n gwneud gwaith paratoi i ddefnyddio'r fangre fel lleoliad o'r fath o dan y drwydded honno, ddefnyddio'r fangre fel lleoliad adloniant rhywiol o dan drwydded Deddf 2003 tan y trydydd diwrnod penodedig, neu benderfynu cais y mae erthygl 6 neu 7 yn gymwys iddo ac sy'n cael ei wneud gan y person hwnnw (gan gynnwys penderfynu unrhyw apêl yn erbyn gwrthod caniatáu'r cais), p'un bynnag yw'r diweddaraf.

(2) Ym mharagraff (1) ystyr "trwydded Deddf 2003", o ran unrhyw fangre, yw trwydded i fangre neu dystysgrif mangre clwb y mae'n gyfreithlon darparu odani adloniant perthnasol yn y fangre honno.

(3) Mae paragraff (1) yn gymwys er gwaethaf Atodlen 3 i Ddeddf 1982 (ac o'r herwydd nid yw unrhyw ddefnydd a awdurdodir gan y paragraff hwnnw yn groes i baragraff 6 o'r Atodlen honno) ond fel arall nid yw'n rhagfarnu unrhyw ddeddfiad arall.

6.–(1) Mae'r erthygl hon yn gymwys i gais a wnaed o dan Atodlen 3 i Ddeddf 1982 ar neu ar ôl y diwrnod penodedig cyntaf ond ar neu cyn yr ail ddiwrnod penodedig, am gael trwydded o dan yr Atodlen honno o ran lleoliad adloniant rhywiol.

(2) Rhaid i'r awdurdod lleol o dan sylw beidio â phenderfynu unrhyw gais y mae'r erthygl hon yn gymwys iddo hyd nes ei fod wedi ystyried pob cais o'r fath.

(3) Pan fo'r awdurdod lleol yn caniatáu cais o'r fath

(2) The references in articles 6(1), 7(1) and 8(1) to an application for the grant of a licence under Schedule 3 to the 1982 Act in relation to a sexual entertainment venue include references to an application for a variation or renewal of a licence under Schedule 3 to the 1982 Act for a sex shop or sex cinema so as to enable the use of the premises concerned as a sexual entertainment venue.

(3) The references in articles 6 to 8 to the determination of an application do not include references to the determination of any appeal against a refusal to grant such an application.

### **Transitional and saving provisions**

3. Articles 4 to 11 apply if Schedule 3 to the 1982 Act, as amended by section 27 of the 2009 Act, comes into force in the area of a local authority in consequence of a resolution of the authority under section 2 of the 1982 Act or paragraph 2(2) of Schedule 3 to the 2009 Act.

4. Paragraphs 28 and 29 of Schedule 3 to the 1982 Act (existing transitional provision) do not apply in relation to sexual entertainment venues.

5.–(1) It is lawful for any person who, immediately before the first appointed day has a 2003 Act licence in relation to any premises and uses the premises as a sexual entertainment venue under the 2003 Act licence, or is undertaking preparatory work to use the premises as such a venue under that licence, to use the premises as a sexual entertainment venue under the 2003 Act licence until the third appointed day, or the determination of an application to which article 6 or 7 applies and which is made by that person (including the determination of any appeal against a refusal to grant the application), whichever is the later.

(2) In paragraph (1) "2003 Act licence", in relation to any premises, means a premises licence or club premises certificate under which it is lawful to provide relevant entertainment at those premises.

(3) Paragraph (1) applies despite Schedule 3 to the 1982 Act (and therefore any use authorised by that paragraph is not contrary to paragraph 6 of that Schedule) but is otherwise without prejudice to any other enactment.

6.–(1) This article applies to an application, which is made under Schedule 3 to the 1982 Act on or after the first appointed day but on or before the second appointed day, for the grant of a licence under that Schedule in relation to a sexual entertainment venue.

(2) The local authority concerned must not determine any application to which this article applies until it has considered all such applications.

(3) Where the local authority grants such an

cyn y trydydd diwrnod penodedig o ran mangre y mae erthygl 5(1) yn gymwys iddi, nid yw'r drwydded yn effeithiol tan y trydydd diwrnod penodedig.

(4) Nid yw paragraff (3) yn rhwystro unrhyw drwydded arall a roddir drwy gais y mae'r erthygl hon yn gymwys iddi rhag cael effaith ar unwaith.

7.–(1) Mae'r erthygl hon yn gymwys i gais a wnaed o dan Atodlen 3 i Ddeddf 1982 ar ôl yr ail ddiwrnod penodedig ond cyn y trydydd diwrnod penodedig, i gael trwydded o dan yr Atodlen honno o ran lleoliad adloniant rhywiol.

(2) Rhaid i'r awdurdod lleol o dan sylw beidio â phenderfynu unrhyw gais y mae'r erthygl hon yn gymwys iddo hyd nes ei fod wedi penderfynu pob cais y mae erthygl 6 yn gymwys iddynt.

(3) Pan fo'r awdurdod lleol yn caniatáu cais y mae'r erthygl hon yn gymwys iddo cyn y trydydd diwrnod penodedig o ran mangre y mae erthygl 5(1) yn gymwys iddi, nid yw'r drwydded yn effeithiol tan y trydydd diwrnod penodedig.

(4) Nid yw paragraff (3) yn rhwystro unrhyw drwydded arall a roddir drwy gais y mae'r erthygl hon yn gymwys iddi rhag cael effaith ar unwaith.

8.–(1) Mae'r erthygl hon yn gymwys i gais a wnaed o dan Atodlen 3 i Ddeddf 1982 ar neu ar ôl y trydydd diwrnod penodedig, i gael trwydded o dan yr Atodlen honno o ran lleoliad adloniant rhywiol.

(2) Rhaid i'r awdurdod lleol o dan sylw beidio â phenderfynu unrhyw gais y mae'r erthygl hon yn gymwys iddo hyd nes ei fod wedi penderfynu pob cais y mae erthygl 7 yn gymwys iddynt.

9.–(1) Nid yw'r diwygiad a wneir i Atodlen 3 i Ddeddf 1982 gan adran 27(5) o Ddeddf 2009 (seiliau dros wrthod trwyddedau) yn gymwys i unrhyw gais a wnaed o dan yr Atodlen honno cyn y diwrnod penodedig cyntaf am gael neu adnewyddu trwydded ar gyfer siop ryw neu sinema ryw.

(2) Nid yw'r diwygiad a wneir i Atodlen 3 i Ddeddf 1982 gan adran 27(7) o Ddeddf 2009 (ffioedd) yn gymwys i unrhyw gais a wnaed o dan yr Atodlen honno cyn y diwrnod penodedig cyntaf am gael amrywio trwydded ar gyfer siop ryw neu sinema ryw.

(3) Nid yw'r diwygiad a wneir i Atodlen 3 i Ddeddf 1982 gan adran 27(8) o Ddeddf 2009 (pwerau cwnstabiliaid a swyddogion awdurdod lleol) yn gymwys pan fo cwnstabl neu swyddog awdurdodedig awdurdod lleol yn gweithredu o ran siop ryw neu sinema ryw o dan awdurdod gwarant a roddwyd o dan yr Atodlen honno cyn y diwrnod penodedig cyntaf.

(4) Nid yw'r diwygiad a wneir i Atodlen 3 i Ddeddf 1982 gan adran 27(9) o Ddeddf 2009 (apelau) yn gymwys i unrhyw gais a wnaed o dan yr Atodlen honno cyn y diwrnod penodedig cyntaf am adnewyddu trwydded ar gyfer siop ryw neu sinema ryw.

application before the third appointed day in relation to premises to which article 5(1) applies, the licence does not take effect until the third appointed day.

(4) Paragraph (3) does not prevent any other licence granted on an application to which this article applies from having immediate effect.

7.–(1) This article applies to an application, which is made under Schedule 3 to the 1982 Act after the second appointed day but before the third appointed day, for the grant of a licence under that Schedule in relation to a sexual entertainment venue.

(2) The local authority concerned must not determine any application to which this article applies until it has determined all the applications to which article 6 applies.

(3) Where the local authority grants an application to which this article applies before the third appointed day in relation to premises to which article 5(1) applies, the licence does not take effect until the third appointed day.

(4) Paragraph (3) does not prevent any other licence granted on an application to which this article applies from having immediate effect.

8.–(1) This article applies to an application, which is made under Schedule 3 to the 1982 Act on or after the third appointed day, for the grant of a licence under that Schedule in relation to a sexual entertainment venue.

(2) The local authority concerned must not determine any application to which this article applies until it has determined all the applications to which article 7 applies.

9.–(1) The amendment made to Schedule 3 to the 1982 Act by section 27(5) of the 2009 Act (grounds for refusal of licences) does not apply to any application made under that Schedule before the first appointed day for the grant or renewal of a licence for a sex shop or sex cinema.

(2) The amendment made to Schedule 3 to the 1982 Act by section 27(7) of the 2009 Act (fees) does not apply to any application made under that Schedule before the first appointed day for the variation of a licence for a sex shop or sex cinema.

(3) The amendment made to Schedule 3 to the 1982 Act by section 27(8) of the 2009 Act (powers of constables and local authority officers) does not apply where a constable or authorised officer of a local authority is acting in relation to a sex shop or sex cinema under the authority of a warrant granted under that Schedule before the first appointed day.

(4) The amendment made to Schedule 3 to the 1982 Act by section 27(9) of the 2009 Act (appeals) does not apply to any application made under that Schedule before the first appointed day for the renewal of a licence for a sex shop or sex cinema.

10. Nid yw'r diwygiad a wneir gan baragraff 23 o Atodlen 7 i Ddeddf 2009 yn gymwys o ran mangre y mae erthygl 5(1) yn gymwys iddi hyd nes bod yr awdurdod a roddwyd gan yr erthygl honno i ddefnyddio'r fangre honno'n dod i ben.

11.–(1) Mae paragraff (2) yn gymwys os bydd person, pan geir cais y mae erthygl 6 neu 7 yn gymwys iddo o ran mangre y mae erthygl 5(1) yn gymwys iddi, yn cael trwydded o dan Atodlen 3 i Ddeddf 1982 i ddefnyddio'r fangre yn lleoliad adloniant rhywiol.

(2) Mae unrhyw amodau yn y drwydded i fangre neu dystysgrif mangre clwb o dan sylw–

- (a) sy'n ymwneud yn ddatganedig ac yn unig â rheoleiddio adloniant perthnasol yn y fangre, neu
- (b) sy'n anghyson â'r amod yn y drwydded a roddwyd o dan Atodlen 3 i Ddeddf 1982 ac yn llai beichus nag ef,

i'w trin fel pe baent wedi'u dileu o'r drwydded i fangre neu'r dystysgrif mangre clwb o dan sylw o'r diwrnod y mae'r drwydded a roddwyd o dan Atodlen 3 i Ddeddf 1982 yn effeithiol.

10. The amendment made by paragraph 23 of Schedule 7 to the 2009 Act does not apply in relation to premises to which article 5(1) applies until the authority granted by that article to use the premises expires.

11.–(1) Paragraph (2) applies if, on an application to which article 6 or 7 applies in relation to the premises to which article 5(1) applies, a person is granted a licence under Schedule 3 to the 1982 Act to use the premises as a sexual entertainment venue.

(2) Any conditions in the premises licence or club premises certificate concerned which–

- (a) relate expressly and exclusively to the regulation of relevant entertainment at the premises, or
- (b) are inconsistent with, and less onerous than, the condition in the licence granted under Schedule 3 to the 1982 Act,

are to be treated as if deleted from the premises licence or club premises certificate concerned from the day on which the licence granted under Schedule 3 to the 1982 Act has effect.

*Carl Sargeant*

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

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

4 Mai 2010

4 May 2010

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Throsedd 2009 (Darpariaethau  
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