



OFFERYNNAU STATUDOL  
CYMRU

WELSH STATUTORY  
INSTRUMENTS

**2018 Rhif 1074 (Cy. 224)**

**2018 No. 1074 (W. 224)**

**Y DIWYDIANT DŴR, CYMRU**

**WATER INDUSTRY, WALES**

**Gorchymyn Draenio Cynaliadwy  
(Cymeradwyo a Mabwysiadu)  
(Cymru) 2018**

**The Sustainable Drainage  
(Approval and Adoption) (Wales)  
Order 2018**

**NODYN ESBONIADOL**

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

Mae'r Gorchymyn hwn yn gwneud darpariaeth mewn perthynas â'r gofyniad i gael cymeradwyaeth ar gyfer systemau draenio cynaliadwy, ac archiadau i'w mabwysiadu, o dan Atodlen 3 i Ddeddf Rheoli Llifogydd a Dŵr 2010 (p. 29) ("y Ddeddf").

Mae erthygl 3 yn darparu nad yw mathau penodol o waith adeiladu i'w trin fel pe bai oblygiadau iddynt o ran draenio.

Mae erthygl 4(1) yn darparu bod gwaith adeiladu nad oes angen caniatâd cynllunio ar ei gyfer yn cael ei eithrio rhag y gofyniad ym mharagraff 7 (gofyniad i gael cymeradwyaeth) o Atodlen 3 i'r Ddeddf. Mae erthygl 4(2) yn darparu nad yw'r eithriad yn gymwys pan fo gan y gwaith adeiladu arwynebedd o 100 metr sgwâr neu fwy.

Mae erthygl 5(1) yn darparu, pan fo angen caniatâd cynllunio mewn perthynas â gwaith adeiladu, a bod y caniatâd yn cael ei roi, neu pan fo awdurdod cynllunio yn cael cais dilys am ganiatâd cynllunio ar gyfer gwaith adeiladu cyn 7 Ionawr 2019 (dyddiad dod i rym y Gorchymyn hwn), nid yw'r gofyniad i gael cymeradwyaeth yn gymwys.

Mae erthygl 5(1) wedi ei hamodi gan erthygl 5(2), sy'n darparu nad yw'r eithriad yn erthygl 5(1) yn gymwys pan fo caniatâd cynllunio wedi ei roi yn ddarostyngedig i fater a gedwir yn ôl, ac nad yw cais am gymeradwyaeth ar gyfer y mater a gedwir yn ôl yn cael ei wneud o fewn y cyfnod o 12 mis sy'n dechrau ar 7 Ionawr 2019.

**EXPLANATORY NOTE**

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

This Order makes provision in relation to the requirement for approval of, and requests for adoption of, sustainable drainage systems under Schedule 3 to the Flood and Water Management Act 2010 (c. 29) ("the Act").

Article 3 provides that certain types of construction work are not to be treated as having drainage implications.

Article 4(1) provides that construction work which does not require planning permission is excepted from the requirement in paragraph 7 ("requirement for approval") of Schedule 3 to the Act. Article 4(2) provides that the exception does not apply where the construction covers an area of 100 square metres or more.

Article 5(1) provides that where planning permission is required in relation to construction work, and is granted, or a valid application for planning permission received, by a planning authority for construction work, before 7 January 2019 (the coming into force of this Order), the requirement for approval does not apply.

Article 5(1) is qualified by article 5(2), which provides that the exception in article 5(1) does not apply where the grant of planning permission was subject to a reserved matter, and an application for approval of the reserved matter is not made within the period of 12 months beginning on 7 January 2019.

Mae erthygl 6 yn darparu bod gwaith adeiladu sy'n cynnwys adeiladu un tŷ annedd, neu fath arall o adeilad, ar arwynebedd o 100 metr sgwâr neu lai, pa un a oes angen caniatâd cynllunio ai peidio, wedi ei eithrio o'r gofyniad i gael cymeradwyaeth.

Mae erthygl 7(1) yn darparu bod rhaid i gorff cymeradwyo benderfynu ar archiad i fabwysiadu system ddraenio o fewn 8 wythnos o gael yr archiad, neu unrhyw gyfnod hwy y cytunwyd arni gan y corff cymeradwyo a'r datblygwr, cyn i'r cyfnod cychwynnol o 8 wythnos ddod i ben.

Mae erthygl 7(2) yn darparu y tybir bod methiant corff cymeradwyo i benderfynu ar archiad o fewn y cyfnod a bennir yn erthygl 7(1) yn archiad a wrthodir.

Lluniwyd asesiad effaith rheoleiddiol, o ran Cymru, o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi oddi wrth Lywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ ac mae wedi ei gyhoeddi ar [www.llyw.cymru](http://www.llyw.cymru).

Article 6 provides that, whether or not planning permission is required, construction work involving the construction of a single dwelling house, or other type of construction, which covers an area of less than 100 square metres, is excepted from the requirement for approval.

Article 7(1) provides that an approving body must determine a request for adoption of a drainage system within 8 weeks of receipt of the request, or any longer period agreed between the approving body and the developer, before the expiry of the initial 8 week period.

Article 7(2) provides that a failure of the approving body to determine a request within the period specified in article 7(1) is deemed to be a refusal of the request.

A regulatory impact assessment in relation to Wales has been prepared on the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ and is published on [www.gov.wales](http://www.gov.wales).

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**The Sustainable Drainage  
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Order 2018**

*Gwnaed* 10 Hydref 2018

*Made* 10 October 2018

*Gosodwyd gerbron Cynulliad Cenedlaethol  
Cymru* 15 Hydref 2018

*Laid before the National Assembly for Wales*  
15 October 2018

*Yn dod i rym* 7 Ionawr 2019

*Coming into force* 7 January 2019

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adrannau 32 a 48(2) o Ddeddf Rheoli Llifogydd a Dŵr 2010(1), a pharagraffau 4(a), 7(4)(b) ac (c) a 23(4)(a) o Atodlen 3 iddi, yn gwneud y Gorchymyn a ganlyn.

The Welsh Ministers, in exercise of the powers conferred by sections 32 and 48(2) of, and paragraphs 4(a), 7(4)(b) and (c) and 23(4)(a) of Schedule 3 to, the Flood and Water Management Act 2010(1), make the following Order.

**Enwi a chychwyn**

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Draenio Cynaliadwy (Cymeradwyo a Mabwysiadu) (Cymru) 2018.

(2) Daw'r Gorchymyn hwn i rym ar 7 Ionawr 2019.

**Title and commencement**

1.—(1) The title of this Order is the Sustainable Drainage (Approval and Adoption) (Wales) Order 2018.

(2) This Order comes into force on 7 January 2019.

**Dehongli**

2.—(1) Yn y Gorchymyn hwn, ystyr “Atodlen 3” (“*Schedule 3*”) yw Atodlen 3 i Ddeddf Rheoli Llifogydd a Dŵr 2010.

(2) Yn y Gorchymyn hwn, oni nodir fel arall, mae cyfeiriad at “gwaith adeiladu(2)” i’w dehongli fel cyfeiriad at waith adeiladu sydd â goblygiadau o ran draenio(3).

**Interpretation**

2.—(1) In this Order, “Schedule 3” (“*Atodlen 3*”) means Schedule 3 to the Flood and Water Management Act 2010.

(2) In this Order unless otherwise stated, a reference to “construction work(2)” is to be construed as a reference to construction work which has drainage implications(3).

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(1) 2010 p. 29. Diwygiwyd Atodlen 3 gan adrannau 21(3), 88(a) ac 88(b) o Ddeddf Dŵr 2014 (p. 21) ac O.S. 2012/1659 a 2013/755 (Cy. 90).

(2) Diffinnir “construction work” ym mharagraff 7(2)(a) o Atodlen 3.

(3) Diffinnir “drainage implications” ym mharagraff 7(2)(b) o Atodlen 3.

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(1) 2010 c. 29. Schedule 3 was amended by sections 21(3), 88(a) and 88(b) of the Water Act 2014 (c. 21) and S.I. 2012/1659 and 2013/755 (W. 90).

(2) “Construction work” is defined in paragraph 7(2)(a) of Schedule 3.

(3) “Drainage implications” is defined in paragraph 7(2)(b) of Schedule 3.

### **Gwaith adeiladu nad yw i gael ei drin fel pe bai goblygiadau iddo o ran draenio**

3.—(1) Nid yw gwaith adeiladu a fyddai, oni bai am yr erthygl hon, â goblygiadau o ran draenio i'w drin fel pe bai goblygiadau iddo o ran draenio os caiff ei wneud o dan yr amgylchiadau ym mharagraff (2).

(2) Mae'r amgylchiadau fel a ganlyn—

- (a) pan fo gwaith adeiladu yn cael ei wneud gan fwrdd draenio mewnol drwy arfer ei swyddogaethau o dan Ddeddf Draenio Tir 1991(1);
- (b) pan fo gwaith adeiladu yn cael ei wneud at ddiben adeiladu, neu mewn cysylltiad ag adeiladu—
  - (i) ffordd y mae Gweinidogion Cymru yn awdurdod priffyrdd ar ei chyfer;
  - (ii) rheilffordd gan Network Rail.

(3) Yn yr erthygl hon—

mae i “awdurdod priffyrdd” yr ystyr a roddir i “highway authority” yn adran 1 o Ddeddf Priffyrdd 1980(2);

mae i “bwrdd draenio mewnol” yr ystyr a roddir i “internal drainage board” yn adran 1 o Ddeddf Draenio Tir 1991;

ystyr “Network Rail” yw Network Rail Infrastructure Limited (Rhif Cwmni 02904587) y mae ei swyddfa gofrestredig yn 1 Eversholt Street, Llundain, NW1 2DN;

mae i “rheilffordd” yr un ystyr ag a roddir i “railway” yn adran 67(1) o Ddeddf Trafnidiaeth a Gweithfeydd 1992(3).

### **Eithriadau i'r gofyniad i gael cymeradwyaeth: caniatâd cynllunio heb fod yn ofynnol**

4.—(1) Yn ddarostyngedig i baragraff (2), nid yw'r gofyniad i gael cymeradwyaeth o dan baragraff 7(1) o Atodlen 3 yn gymwys i waith adeiladu pan na fo'n ofynnol cael caniatâd cynllunio ar gyfer y gwaith adeiladu(4).

### **Construction work not to be treated as having drainage implications**

3.—(1) Construction work which, but for this article would have drainage implications, is not to be treated as having drainage implications if it is carried out in the circumstances in paragraph (2).

(2) The circumstances are where—

- (a) construction work is carried out by an internal drainage board in exercise of its functions under the Land Drainage Act 1991(1);
- (b) construction work is carried out for the purpose of, or in connection with, the construction of—
  - (i) a road for which the Welsh Ministers are the highway authority;
  - (ii) a railway by Network Rail.

(3) In this article—

“highway authority” (“*awdurdod priffyrdd*”) has the meaning given in section 1 of the Highways Act 1980(2);

“internal drainage board” (“*bwrdd draenio mewnol*”) has the meaning given in section 1 of the Land Drainage Act 1991;

“Network Rail” means Network Rail Infrastructure Limited (Company No. 02904587) whose registered office is at 1 Eversholt Street, London, NW1 2DN;

“railway” (“*rheilffordd*”) has the meaning given in section 67(1) of the Transport and Works Act 1992(3).

### **Exceptions to requirement for approval: planning permission not required**

4.—(1) Subject to paragraph (2), the requirement for approval under paragraph 7(1) of Schedule 3 does not apply to construction work where the construction work does not require planning permission(4).

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(1) 1991 p. 59.

(2) 1980 p. 66. Trosglwyddwyd swyddogaethau'r Gweinidog, i'r graddau y maent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru (CCC) gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672). Mae swyddogaethau CCC yn arferadwy bellach gan Weinidogion Cymru yn rhinwedd paragraff 30 o Atodlen 11 i Deddf Llywodraeth Cymru 2006 (p. 32).

(3) 1992 p. 42.

(4) Diffinnir “planning permission” ym mharagraff 8(4) o Atodlen 3.

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(1) 1991 c. 59.

(2) 1980 c. 66. Functions of the Minister in so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales (NAW) by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Functions of NAW are now exercisable by Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(3) 1992 c. 42.

(4) “Planning permission” is defined in paragraph 8(4) of Schedule 3.

(2) Nid yw'r eithriad ym mharagraff (1) yn gymwys pan fo'r gwaith adeiladu yn cynnwys adeiladu adeilad neu strwythur arall ar ddarn o dir sy'n mesur 100 metr sgwâr neu fwy.

### **Eithriadau i'r gofyniad i gael cymeradwyaeth: caniatâd cynllunio gofynnol**

5.—(1) Yn ddarostyngedig i baragraff (2), nid yw'r gofyniad i gael cymeradwyaeth o dan baragraff 7(1) o Atodlen 3 yn gymwys i unrhyw waith adeiladu, cyn 7 Ionawr 2019—

- (a) a gafodd ganiatâd cynllunio neu y tybir iddo gael caniatâd cynllunio mewn cysylltiad ag ef (pa un ai yw'n ddarostyngedig i unrhyw amod o ran mater a gedwir yn ôl ai peidio), neu
- (b) yr oedd awdurdod cynllunio lleol wedi cael cais dilys am ganiatâd cynllunio mewn cysylltiad ag ef, ond nad oedd wedi penderfynu arno'n derfynol erbyn y dyddiad hwnnw.

(2) Nid yw'r eithriad ym mharagraff (1) yn gymwys i waith adeiladu y rhoddwyd caniatâd cynllunio ar ei gyfer cyn 7 Ionawr 2019—

- (a) os rhoddwyd y caniatâd yn ddarostyngedig i amod o ran mater a gedwir yn ôl, a
- (b) os na wneir cais am gymeradwyaeth ar gyfer y mater a gedwir yn ôl o fewn y cyfnod o 12 mis sy'n dechrau ar 7 Ionawr 2019.

(3) At ddibenion y Gorchymyn hwn, ceir cais dilys am ganiatâd cynllunio cyn 7 Ionawr 2019 os cafodd ei wneud cyn y dyddiad hwnnw a'i fod yn cydymffurfio â Gorchymyn Cynllunio Gwlad a Thref (Gweithdrefn Rheoli Datblygu) (Cymru) 2012(1).

(4) Yn yr erthygl hon—

mae i "awdurdod cynllunio lleol" yr ystyr a roddir i "local planning authority" yn adran 1(1B) o Ddeddf Cynllunio Gwlad a Thref 1990(2);

mae i "mater a gedwir yn ôl" yr ystyr a roddir i "reserved matter" yn adran 92(1) o'r Ddeddf honno.

### **Eithriadau i'r gofyniad i gael cymeradwyaeth: arwynebedd adeiladu o lai na 100 metr sgwâr**

6.—(1) Nid yw'r gofyniad i gael cymeradwyaeth o dan baragraff 7(1) o Atodlen 3 yn gymwys—

- (a) pan fo gwaith adeiladu yn cynnwys—
  - (i) adeiladu un tŷ annedd, a

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(1) O.S. 2012/801 (Cy. 110).

(2) 1990 p. 8. Mewnosodwyd adran 1(1B) gan adran 18 o Ddeddf Llywodraeth Leol (Cymru) 1994 (p. 19).

(2) The exception in paragraph (1) does not apply where the construction work involves the construction of a building or other structure covering an area of land of 100 square metres or more.

### **Exceptions to requirement for approval: planning permission required**

5.—(1) Subject to paragraph (2), the requirement for approval under paragraph 7(1) of Schedule 3 does not apply to any construction work in respect of which, before 7 January 2019—

- (a) planning permission was granted or deemed to be granted (whether or not subject to any condition as to a reserved matter), or
- (b) a local planning authority received a valid application for planning permission but by that date had not finally determined it.

(2) The exception in paragraph (1) does not apply to construction work in respect of which planning permission was granted before 7 January 2019 if—

- (a) the grant was subject to a condition as to a reserved matter, and
- (b) an application for approval of the reserved matter is not made within the period of 12 months beginning with 7 January 2019.

(3) For the purposes of this Order, a valid application for planning permission is received before 7 January 2019 if it is made before that date and complies with the Town and Country Planning (Development Management Procedure) (Wales) Order 2012(1).

(4) In this article—

"local planning authority" ("*awdurdod cynllunio lleol*") has the meaning given in section 1(1B) of the Town and Country Planning Act 1990(2);

"reserved matter" ("*mater a gedwir yn ôl*") has the meaning given in section 92(1) of that Act.

### **Exceptions to requirement for approval: construction area less than 100 square metres**

6.—(1) The requirement for approval under paragraph 7(1) of Schedule 3 does not apply where—

- (a) construction work involves—
  - (i) the construction of a single dwelling house, and

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(1) S.I. 2012/801 (W. 110).

(2) 1990 c. 8. Section 1(1B) was inserted by section 18 Local Government (Wales) Act 1994 (c. 19).

(ii) darn o dir lle y gwneir y gwaith adeiladu sy'n mesur llai na 100 metr sgwâr, neu

(b) yn achos unrhyw fath arall o waith adeiladu, pan fo'r darn o dir lle y gwneir y gwaith adeiladu yn mesur llai na 100 metr sgwâr.

(2) Mae'r erthygl hon yn gymwys pa un a yw caniatâd cynllunio yn ofynnol ai peidio ar gyfer y gwaith adeiladu.

### Penderfynu ar archiadau i fabwysiadu

7.—(1) Y cyfnod y mae'n rhaid i gorff cymeradwyo(1) system ddraenio benderfynu ar archiad i fabwysiadu'r system ddraenio o'i fewn yw—

- (a) 8 wythnos gan ddechrau ar y diwrnod gwaith cyntaf ar ôl iddo gael yr archiad, neu
- (b) unrhyw gyfnod estynedig y cytunwyd arno gan y corff cymeradwyo a'r datblygwr(2) cyn diwedd y cyfnod yn is-baragraff (a).

(2) Tybir bod corff cymeradwyo sy'n methu â phenderfynu ar archiad o fewn y cyfnod a bennir ym mharagraff (1) wedi gwrthod yr archiad.

(3) Yn yr erthygl hon—

ystyr “archiad i fabwysiadu” (“*request to adopt*”) yw archiad yn unol â pharagraff 23(2)(b) o Atodlen 3;

ystyr “diwrnod gwaith” (“*working day*”) yw diwrnod nad yw'n ddydd Sadwrn, yn ddydd Sul, nac yn wyl banc, o fewn yr ystyr a roddir i “bank holiday” yn adran 1 o Ddeddf Bancio a Thrafodion Ariannol 1971(3), neu wyl gyhoeddus arall yng Nghymru.

(ii) the area of land covered by the construction work is less than 100 square metres, or

(b) in the case of any other type of construction work, the area of land covered by the construction work is less than 100 square metres.

(2) This article applies whether or not planning permission is required for the construction work.

### Determining requests for adoption

7.—(1) The period within which an approving body(1) for a drainage system must determine a request to adopt a drainage system is—

- (a) 8 weeks beginning on the first working day after it receives the request, or
- (b) any extended period agreed to by the approving body and developer(2) before the end of the period in sub-paragraph (a).

(2) An approving body which fails to determine a request within the period specified in paragraph (1) is deemed to have refused the request.

(3) In this article—

“request to adopt” (“*archiad i fabwysiadu*”) means a request pursuant to paragraph 23(2)(b) of Schedule 3;

“working day” (“*diwrnod gwaith*”) means a day which is not a Saturday, Sunday, a bank holiday within the meaning of section 1 of the Banking and Financial Dealings Act 1971(3), or other public holiday in Wales.

*Hannah Blythyn*

Gweinidog yr Amgylchedd, o dan awdurdod Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig, un o Weinidogion Cymru  
10 Hydref 2018

Minister for Environment under authority of the Cabinet Secretary for Energy, Planning and Rural Affairs, one of the Welsh Ministers  
10 October 2018

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(1) Diffinnir “approving body” ym mharagraff 6 o Atodlen 3.  
(2) Diffinnir “developer” mewn perthynas ag archiad i fabwysiadu ym mharagraff 23(2)(b) o Atodlen 3.  
(3) 1971 p. 80.

(1) “Approving body” is defined in paragraph 6 of Schedule 3.  
(2) “Developer” is defined in relation to a request to adopt in paragraph 23(2)(b) of Schedule 3.  
(3) 1971 c. 80.



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