



OFFERYNNAU STATUDOL  
CYMRU

WELSH STATUTORY  
INSTRUMENTS

**2018 Rhif 767 (Cy. 154)**

**2018 No. 767 (W. 154)**

**ENILLION TROSEDDAU,  
CYMRU**

**PROCEEDS OF CRIME,  
WALES**

**Gorchymyn Deddf Enillion  
Troseddau 2002 (Cyfeiriadau at  
Ymchwilyr Ariannol Awdurdod  
Cyllid Cymru) (Diwygio) 2018**

**The Proceeds of Crime Act 2002  
(References to Welsh Revenue  
Authority Financial Investigators)  
(Amendment) Order 2018**

**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 diwygio Gorchymyn Deddf Enillion Troseddau 2002 (Cyfeiriadau at Ymchwilyr Ariannol Awdurdod Cyllid Cymru) 2018 (O.S. 2018/196 (Cy. 45)) ("y Prif Orchymyn").

This Order amends the Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018 (S.I. 2018/196 (W. 45)) ("the Principal Order").

Mae'r diwygiadau a wneir gan y Gorchymyn hwn yn ofynnol o ganlyniad i ddiwygiadau i Ddeddf Enillion Troseddau 2002 (p. 29) a wneir gan Ddeddf Cyllid Troseddol 2017 (p. 22).

The amendments made by this Order are required as a result of amendments to the Proceeds of Crime Act 2002 (c. 29) ("POCA") made by the Criminal Finances Act 2017 (c. 22) ("CFA").

Mae Deddf Cyllid Troseddol 2017 yn cyflwyno pwerau i Ddeddf Enillion Troseddau 2002 er mwyn ymfael yn eitemau eiddo penodol a restrir, eu cadw a'u fforffedu, ac i gloi a fforffedu arian mewn cyfrifon banc a chymdeithasau adeiladu ("y pwerau fforffedu newydd"). Cefnogir y pwerau hyn drwy greu dau gategori ymchwilio newydd yn Rhan 8 o Ddeddf Enillion Troseddau 2002 (ymchwiliad eiddo dan gadwad ac ymchwiliadau cyllid clo) ("yr ymchwiliadau newydd"). Mae'r Gorchymyn hwn yn mewnosod darpariaethau yn y Prif Orchymyn er mwyn galluogi ymchwilyr ariannol achrededig Awdurdod Cyllid Cymru i gael mynediad at y pwerau fforffedu newydd a'r ymchwiliadau newydd, ac i bennu pa ymchwilyr ariannol achrededig sy'n "uwchswyddogion" at ddibenion y darpariaethau hynny. Yn ogystal, mae'r Gorchymyn hwn yn gwneud darpariaeth mewn cysylltiad â'r mynediad at bwerau chwilio yn adrannau 352 a 353 o Ddeddf Enillion Troseddau 2002. Mae cwmpas y ddarpariaeth yn y Prif Orchymyn wedi ei estyn i gynnwys yr ymchwiliadau newydd.

The CFA introduces powers into POCA to seize, detain and forfeit certain listed items of property, and to freeze and forfeit money in bank and building society accounts ("the new forfeiture powers"). These powers are supported by the creation of two new categories of investigation in Part 8 of POCA (the detained property investigation and frozen funds investigations) ("the new investigations"). This Order inserts provisions into the Principal Order to enable Welsh Revenue Authority accredited financial investigators ("AFIs") to have access to the new forfeiture powers and the new investigations, and to specify which AFIs are "senior officers" for the purposes of those provisions. In addition, this Order makes provision in respect of the access to search powers in sections 352 and 353 of POCA. The scope of the provision in the Principal Order is extended to include the new investigations.

Mae Deddf Cyllid Troseddol 2017 yn mewnosod darpariaethau yn Rhan 7 o Ddeddf Enillion Troseddau 2002 sy'n caniatáu i ymchwilyr ariannol achrededig sy'n uwch-swyddogion wneud cais i'r llys ynadon am orchymyn o dan adran 336A o Ddeddf Enillion Troseddau 2002 er mwyn estyn y cyfnod moratoriwm. Cyfnod o 31 diwrnod yw hwn sy'n digwydd pan fydd amheuaeth o wyngalchu arian wedi ei datgelu, ac yn ystod y cyfnod hwnnw ni ellir cymryd yn ganiataol bod awdurdodau gorfodi'r gyfraith yn rhoi cydsyniad i drafodiad penodol fynd yn ei flaen. Mae'r Gorchymyn hwn hefyd yn mewnosod darpariaeth yn y Prif Orchymyn er mwyn pennu pa ymchwilyr ariannol achrededig sy'n uwch-swyddogion at ddibenion gorchymyn o dan adran 336A o Ddeddf Enillion Troseddau 2002.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Gorchymyn hwn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Gorchymyn hwn.

The CFA inserts provisions into Part 7 of POCA which allow AFIs who are senior officers to make an application to the magistrates' court for an order under section 336A of POCA to extend the moratorium period. This is a period of 31 days which arises when suspicions of money laundering have been disclosed, and during which law enforcement cannot be assumed to consent to a particular transaction proceeding. This Order also inserts provision into the Principal Order to specify which AFIs are senior officers for the purposes of an order under section 336A of POCA.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with this Order.

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Cyllid Cymru) (Diwygio) 2018

The Proceeds of Crime Act 2002  
(References to Welsh Revenue  
Authority Financial Investigators)  
(Amendment) Order 2018

*Gwnaed* 24 Mehefin 2018

*Made* 24 June 2018

*Gosodwyd gerbron Cynulliad Cenedlaethol  
Cymru* 28 Mehefin 2018

*Laid before the National Assembly for Wales*  
28 June 2018

*Yn dod i rym* 20 Gorffennaf 2018

*Coming into force* 20 July 2018

Mae Gweinidogion Cymru yn gwneud y Gorchymyn hwn drwy arfer y pwerau a roddir iddynt gan adran 453(1A) a (2) o Ddeddf Enillion Troseddau 2002(1).

The Welsh Ministers make this Order in exercise of the powers conferred on them by section 453(1A) and (2) of the Proceeds of Crime Act 2002(1).

**Enwi, cychwyn a dehongli**

**Title, commencement and interpretation**

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Deddf Enillion Troseddau 2002 (Cyfeiriadau at Ymchwilywyr Ariannol Awdurdod Cyllid Cymru) (Diwygio) 2018.

1.—(1) The title of this Order is the Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) (Amendment) Order 2018.

(2) Daw'r Gorchymyn hwn i rym ar 20 Gorffennaf 2018.

(2) This Order comes into force on 20 July 2018.

(3) Yn y Gorchymyn hwn ystyr "ACC" ("WRA") yw Awdurdod Cyllid Cymru.

(3) In this Order "WRA" ("ACC") means the Welsh Revenue Authority.

**Diwygio Gorchymyn Deddf Enillion Troseddau 2002 (Cyfeiriadau at Ymchwilywyr Ariannol Awdurdod Cyllid Cymru) 2018**

**Amendments to the Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018**

2.—(1) Mae Gorchymyn Deddf Enillion Troseddau 2002 (Cyfeiriadau at Ymchwilywyr Ariannol Awdurdod Cyllid Cymru) 2018(2) wedi ei ddiwygio fel a ganlyn.

2.—(1) The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018(2) is amended as follows.

(2) Yn Rhan 1 (cyfeiriad at ymchwilydd ariannol achrededig sy'n aelod o staff ACC) o'r Atodlen—

(2) In Part 1 (reference to an accredited financial investigator who is a member of staff of WRA) of the Schedule—

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(1) 2002 p. 29. Mewnosodwyd adran 453(1A) gan adran 186(4) o Ddeddf Casglu a Rheoli Trethi (Cymru) 2016 (dccc 6).

(2) O.S. 2018/196 (Cy. 45).

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(1) 2002 c. 29. Section 453(1A) was inserted by section 186(4) of the Tax Collection and Management (Wales) Act 2016 (anaw 6).

(2) S.I. 2018/196 (W. 45).

(a) ym mharagraff 3, ar ôl “290(4)(c)” mewnosoder “a’r cyfeiriad yn adran 297A(6)(c)(1)”;

(b) ar ôl paragraff 3 mewnosoder—

“**3A.** Adran 303C(9)(d)(2) (swyddog perthnasol at ddibenion Pennod 3A), adran 303L(5)(d) (personau penodedig - cadwad pellach o eiddo yr ymafaelwyd ynddo) ac adran 303O(2)(d) (personau penodedig - fforffedu eiddo).”

**3B.** Adran 303Z1(6)(3) (swyddog gorfodi at ddibenion Pennod 3B) ac adran 303Z14(3)(d) (personau penodedig at ddibenion ceisiadau fforffedu cyfrif).”;

(c) ym mharagraff 4, ar ôl “352(5)(c)” mewnosoder “, (ca) ac (cb)(4)”;

(d) ym mharagraff 5, ar ôl “353(10)(c)” mewnosoder “, (ca) ac (cb)(5)”;

(e) ar ôl paragraff 7 mewnosoder—

“**7A.** Adran 378(3C)(c)(6) (y swyddogion priodol at ddibenion ymchwiliadau eiddo dan gadwad o dan Ran 8).

**7B.** Adran 378(3E)(c) (y swyddogion priodol at ddibenion ymchwiliadau cyllid clo o dan Ran 8).”

(3) Yn Rhan 2 (cyfeiriad at ymchwilydd ariannol achrededig sy’n aelod o staff ACC ac sydd ar radd 7 neu uwch neu radd gyfatebol) o’r Atodlen—

(a) ar ôl paragraff 11 mewnosoder—

“**11A.** Adran 297A(6)(c) (uwch-swyddog at ddiben rhoi hysbysiad fforffedu).

**11B.** Adran 303E(4)(f)(7) (uwch-swyddog at ddibenion cymeradwyaeth ymlaen llaw i gynnal chwiliadau).

**11C.** Adran 303Z2(4)(e)(8) (uwch-swyddog at ddibenion Pennod 3B).

(a) in paragraph 3, after “290(4)(c)” insert “and the reference in section 297A(6)(c)(1)”;

(b) after paragraph 3 insert—

“**3A.** Section 303C(9)(d)(2) (relevant officer for the purposes of Chapter 3A), section 303L(5)(d) (specified persons - further detention of seized property) and section 303O(2)(d) (specified persons - forfeiture of property).”

**3B.** Section 303Z1(6)(3) (enforcement officer for the purposes of Chapter 3B) and section 303Z14(3)(d) (specified persons for the purposes of account forfeiture applications).”;

(c) in paragraph 4, after “352(5)(c)” insert “, (ca) and (cb)(4)”;

(d) in paragraph 5, after “353(10)(c)” insert “, (ca) and (cb)(5)”;

(e) after paragraph 7 insert—

“**7A.** Section 378(3C)(c)(6) (appropriate officers for the purposes of detained property investigations under Part 8).

**7B.** Section 378(3E)(c) (appropriate officers for the purposes of frozen funds investigations under Part 8).”

(3) In Part 2 (reference to an accredited financial investigator who is a member of staff of WRA and is at or above grade 7 or equivalent) of the Schedule—

(a) after paragraph 11 insert—

“**11A.** Section 297A(6)(c) (senior officer for the purpose of giving a forfeiture notice).

**11B.** Section 303E(4)(f)(7) (senior officer for the purposes of prior approval for searches).

**11C.** Section 303Z2(4)(e)(8) (senior officer for the purposes of Chapter 3B).

(1) Mewnosodwyd adran 297A gan adran 65(1) o Ddeddf Plismona a Throsedd 2009 (p. 26). Fe’i diwygiwyd gan baragraff 14 o Atodlen 21 i Ddeddf Troseddau a’r Llysoedd 2013 (p. 22) ac adran 34(7) o Ddeddf Cyllid Troseddol 2017 (p. 22) (“Deddf 2017”) a pharagraff 19 o Atodlen 1 iddi.

(2) Mewnosodwyd adrannau 303C, 303L a 303O gan adran 15 o Ddeddf 2017.

(3) Mewnosodwyd adrannau 303Z1 a 303Z14 gan adran 16 o Ddeddf 2017.

(4) Mewnosodwyd adran 352(5)(ca) ac (cb) gan baragraff 47 o Atodlen 5 i Ddeddf 2017.

(5) Mewnosodwyd adran 353(10)(ca) ac (cb) gan baragraff 48 o Atodlen 5 i Ddeddf 2017.

(6) Mewnosodwyd adran 378(3C) i (3F) gan baragraff 59 o Atodlen 5 i Ddeddf 2017.

(7) Mewnosodwyd adran 303E gan adran 15 o Ddeddf 2017.

(8) Mewnosodwyd adran 303Z2 gan adran 16 o Ddeddf 2017.

(1) Section 297A was inserted by section 65(1) of the Policing and Crime Act 2009 (c. 26). It was amended by paragraph 14 of Schedule 21 to the Crime and Courts Act 2013 (c. 22) and section 34(7) of, and paragraph 19 of Schedule 1 to the Criminal Finances Act 2017 (c. 22) (“the 2017 Act”).

(2) Sections 303C, 303L and 303O were inserted by section 15 of the 2017 Act.

(3) Sections 303Z1 and 303Z14 were inserted by section 16 of the 2017 Act.

(4) Section 352(5)(ca) and (cb) were inserted by paragraph 47 of Schedule 5 to the 2017 Act.

(5) Section 353(10)(ca) and (cb) were inserted by paragraph 48 of Schedule 5 to the 2017 Act.

(6) Section 378(3C) to (3F) was inserted by paragraph 59 of Schedule 5 to the 2017 Act.

(7) Section 303E was inserted by section 15 of the 2017 Act.

(8) Section 303Z2 was inserted by section 16 of the 2017 Act.

**11D.** Adran 336D(7)(h)(1) (uwch-swyddog at ddibenion adran 336A (pŵer y llys i estyn y cyfnod moratoriwm)).”; a

(b) ar ôl paragraff 13 mewnosoder—

“**13A.** Adran 378(3D)(c) (uwch-swyddogion priodol at ddibenion ymchwiliadau eiddo dan gadwad o dan Ran 8).

**13B.** Adran 378(3F)(c) (uwch-swyddogion priodol at ddibenion ymchwiliadau cyllid clo o dan Ran 8).”

**11D.** Section 336D(7)(h)(1) (senior officer for the purposes of section 336A (power of court to extend the moratorium period)).”; and

(b) after paragraph 13 insert—

“**13A.** Section 378(3D)(c) (senior appropriate officers for the purposes of detained property investigations under Part 8).

**13B.** Section 378(3F)(c) (senior appropriate officers for the purposes of frozen funds investigations under Part 8).”

*Mark Drakeford*

Ysgrifennydd y Cabinet dros Gyllid, un o Weinidogion  
Cymru  
24 Mehefin 2018

Cabinet Secretary for Finance, one of the Welsh  
Ministers  
24 June 2018

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