



Mesur Diogelwch ar Gludiant i Ddysgwyr (Cymru) 2011

2011 mccc 6

Safety on Learner Transport (Wales) Measure 2011

2011 nawm 6

Lluniwyd Nodiadau Esboniadol yn gymorth i ddeall y Mesur hwn ac maent ar gael ar wahân.

Explanatory Notes have been produced to assist in the understanding of this Measure and are available separately.

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Mesur Diogelwch ar Gludiant i Ddysgwyr (Cymru) 2011

Mesur gan Gynulliad Cenedlaethol Cymru i ddarparu am ddiogelwch ar gludiant a ddarperir neu a sicrheir fel arall gan awdurdodau lleol neu gyrff llywodraethu ysgolion a gynhelir at ddibenion sicrhau bod plant yn mynychu manau lle y cânt eu haddysgu neu eu hyfforddi; ac at ddibenion cysylltiedig.

Mae'r Mesur hwn, a basiwyd gan Gynulliad Cenedlaethol Cymru ar 22 Mawrth 2011 ac a gymeradwywyd gan Ei Mawrhydi yn Ei Chyngor ar 10 Mai 2011, yn deddfu'r darpariaethau a ganlyn:—

1 Gofyniad am wregysau diogelwch ar fysiau a ddefnyddir yn gludiant i ddysgwyr

Ar ôl adran 14 o Fesur Teithio gan Ddysgwyr (Cymru) 2008 rhodder—

“Diogelwch ar gludiant i ddysgwyr

14A Gofyniad am wregysau diogelwch ar fysiau a ddefnyddir yn gludiant i ddysgwyr

- (1) Rhaid i gorff perthnasol sicrhau bod pob bws a ddefnyddir yn gludiant i ddysgwyr y mae'n ei ddarparu neu yn ei sicrhau fel arall yn un y mae gwregys diogelwch wedi ei ffitio i bob sedd deithiwr.
- (2) Rhaid i berson sy'n darparu cludiant i ddysgwyr a sicrheir gan gorff perthnasol sicrhau bod pob bws a ddefnyddir ar gyfer cludiant o'r fath yn un y mae gwregys diogelwch wedi ei ffitio i bob sedd deithiwr.
- (3) Mae person sy'n methu â chydymffurfio ag is-adran (1) neu (2) yn cyflawni tramgwydd ac yn agored, o'i gollfarnu'n ddiannod, i ddirwy nad yw'n uwch na lefel 4 ar y raddfa safonol.
- (4) Mae'n amddiffyniad i ddangos bod y methiant i gydymffurfio ag is-adran (1) neu (2) wedi ei gyfiawnhau oherwydd amgylchiadau eithriadol.
- (5) Nid oes dim yn yr adran hon i'w ddehongli fel petai'n gosod safonau technegol ar gyfer gwneuthuriad neu gyfarpar cerbyd sy'n wahanol i'r safonau a fyddai neu a allai fod yn gymwys mewn modd arall i'r cerbyd hwnnw yn rhinwedd unrhyw ddeddfiad neu unrhyw ofyniad yng nghyfraith yr Undeb Ewropeaidd sy'n uniongyrchol gymwysadwy.
- (6) Yn yr adran hon—



Safety on Learner Transport (Wales) Measure 2011

A Measure of the National Assembly for Wales to make provision about safety on transport provided or otherwise secured by local authorities or governing bodies of maintained schools for the purpose of ensuring the attendance of children at places where they receive education or training; and for connected purposes.

This Measure, passed by the National Assembly for Wales on 22 March 2011 and approved by Her Majesty in Council on 10 May 2011, enacts the following provisions:—

1 Requirement for seat belts on buses used for learner transport

After section 14 of the Learner Travel (Wales) Measure 2008 insert—

“Safety on learner transport

14A Requirement for seat belts on buses used for learner transport

- (1) A relevant body must ensure that every bus used for the learner transport it provides or otherwise secures is one that has a seat belt fitted to every passenger seat.
- (2) A person who provides learner transport secured by a relevant body must ensure that every bus used for such transport is one that has a seat belt fitted to every passenger seat.
- (3) A person who fails to comply with subsection (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) It is a defence to show that the failure to comply with subsection (1) or (2) was justified by exceptional circumstances.
- (5) Nothing in this section is to be interpreted as setting technical standards for a vehicle's construction or equipment which differ from the standards that would or might otherwise apply to that vehicle by virtue of any enactment or directly applicable requirement of European Union law.
- (6) In this section—

ystyr “bws” yw cerbyd modur sydd wedi ei wneuthur neu wedi ei addasu i gario mwy nag wyth o deithwyr ar eu heistedd yn ychwanegol at y gyrrwr;

ystyr “deddfiad” yw unrhyw un o’r canlynol, pryd bynnag y’i pasiwyd neu y’i gwnaed –

- (a) Deddf Seneddol;
- (b) is-ddeddfwriaeth a wnaed o dan Ddeddf Seneddol;
- (c) darpariaeth mewn unrhyw Ddeddf neu is-ddeddfwriaeth o’r fath;

ystyr “gwregys diogelwch” yw gwregys sydd wedi ei fwriadu ar gyfer ei wisgo gan berson mewn cerbyd ac sydd wedi ei ddylunio i atal neu leihau anafiadau i’r sawl sy’n ei wisgo os bydd damwain i’r cerbyd.”.

2 Rhagor o ddarpariaethau ar gyfer y disgrifiadau o gerbydau y caniateir eu defnyddio yn gludiant i ddysgwyr

Ar ôl adran 14A o Fesur Teithio gan Ddysgwyr (Cymru) 2008 rhodder –

“Diogelwch ar gludiant i ddysgwyr

14B Rhagor o ddarpariaethau ar gyfer y disgrifiadau o gerbydau y caniateir eu defnyddio yn gludiant i ddysgwyr

- (1) Caiff rheoliadau wneud darpariaeth bellach er mwyn –
 - (a) ei gwneud yn ofynnol i gorff perthnasol sicrhau mai dim ond cerbydau o ddisgrifiadau rhagnodedig a ddefnyddir yn gludiant i ddysgwyr y mae yn ei ddarparu neu yn ei sicrhau fel arall;
 - (b) ei gwneud yn ofynnol i berson sy’n darparu cludiant i ddysgwyr a sicrheir gan gorff perthnasol ddefnyddio cerbydau o ddisgrifiadau rhagnodedig yn unig;
 - (c) darparu am dramgwyddau troseddol a chosbau am dorri gofynion a osodir o dan yr adran hon.
- (2) Caiff rheoliadau o dan baragraffau (a) a (b) o is-adran (1) ddisgrifio cerbydau drwy gyfeirio at wneuthuriad, cyfarpar neu nodweddion eraill cerbyd.”.

3 Recordio delweddau gweledol neu sain ar gludiant i ddysgwyr

Ar ôl adran 14B o Fesur Teithio gan Ddysgwyr (Cymru) 2008 rhodder –

“14C Recordio delweddau gweledol neu sain ar gludiant i ddysgwyr

- (1) Caiff rheoliadau –
 - (a) ei gwneud yn ofynnol i drefniadau rhagnodedig gael eu gwneud i recordio delweddau gweledol neu sain o ddigwyddiadau sy’n digwydd ar gludiant i ddysgwyr a ddarperir neu a sicrheir fel arall gan gorff perthnasol;

“bus” means a motor vehicle constructed or adapted to carry more than eight seated passengers in addition to the driver;

“enactment” means any of the following, whenever passed or made –

- (a) an Act of Parliament;
- (b) subordinate legislation made under an Act of Parliament;
- (c) a provision of any such Act or subordinate legislation;

“seat belt” means a belt intended to be worn by a person in a vehicle and designed to prevent or lessen injury to its wearer in the event of an accident to the vehicle.”.

2 Further provision as to descriptions of vehicle that may be used for learner transport

After section 14A of the Learner Travel (Wales) Measure 2008 insert –

“Safety on learner transport

14B Further provision as to descriptions of vehicle that may be used for learner transport

- (1) Regulations may make further provision to –
 - (a) require a relevant body to ensure that only prescribed descriptions of vehicle are used for the learner transport it provides or otherwise secures;
 - (b) require a person who provides learner transport secured by a relevant body to use only prescribed descriptions of vehicle;
 - (c) provide for criminal offences and penalties for breaches of requirements imposed under this section.
- (2) Regulations under paragraphs (a) and (b) of subsection (1) may describe vehicles by reference to a vehicle’s construction, equipment or other characteristics.”.

3 Recording visual images or sound on learner transport

After section 14B of the Learner Travel (Wales) Measure 2008 insert –

“14C Recording visual images or sound on learner transport

- (1) Regulations may –
 - (a) require prescribed arrangements to be made for recording visual images or sound of events occurring on the learner transport provided or otherwise secured by a relevant body;

- (b) darparu ynghylch defnyddio, storio a chadw delweddau gweledol neu sain a recordir ar gludiant i ddysgwyr a ddarperir neu a sicrhau gan gorff perthnasol;
 - (c) darparu am dramgwyddau troseddol a chosbau am dorri gofynion a osodir o dan yr adran hon.
- (2) Caiff rheoliadau o dan is-adran (1) (ymhlith pethau eraill) roi pwerau neu ddyletswyddau ar unrhyw un o'r canlynol –
- (a) corff perthnasol;
 - (b) person sy'n darparu cludiant i ddysgwyr a sicrhau gan gorff perthnasol.
- (3) Ni chaiff rheoliadau o dan is-adran (1) awdurdodi na'i gwneud yn ofynnol bod recordio yn digwydd mewn ffordd sydd wedi ei chynllunio i sicrhau nad yw personau sy'n ddarostyngedig iddo yn gwybod ei fod neu y gall fod yn digwydd.”.

4 **Asesiad risg diogelwch o gludiant i ddysgwyr**

Ar ôl adran 14C o Fesur Teithio gan Ddysgwyr (Cymru) 2008 rhodder –

“14D Asesiad risg diogelwch o gludiant i ddysgwyr

- (1) Caiff rheoliadau ei gwneud yn ofynnol i gorff perthnasol gynnal asesiadau risg diogelwch o'r cludiant i ddysgwyr y mae yn ei ddarparu neu yn ei sicrhau fel arall.
- (2) Caiff rheoliadau o dan is-adran (1) –
 - (a) gosod gofynion ynghylch natur yr asesiad i'w gynnal;
 - (b) ei gwneud yn ofynnol i lunio a chyhoeddi adroddiadau;
 - (c) rhagnodi ffurf a dull y cyhoeddi;
 - (d) rhagnodi pa mor aml y mae'n rhaid cynnal yr asesiadau.”.

5 **Hyfforddi gyrwyr**

Ar ôl adran 14D o Fesur Teithio gan Ddysgwyr (Cymru) 2008 rhodder –

“14E Hyfforddi gyrwyr

- (1) Caiff rheoliadau ei gwneud yn ofynnol i gorff perthnasol sy'n darparu neu yn sicrhau fel arall bod cludiant i ddysgwyr yn cael ei ddarparu sicrhau bod gyrwyr cerbydau a ddefnyddir at y cyfryw gludiant wedi cwblhau hyfforddiant rhagnodedig i safon rhagnodedig.
- (2) Caniateir rhagnodi hyfforddiant a safonau drwy gyfeirio at ddogfen a gyhoeddir, fel a bennir yn y rheoliadau, gan Weinidogion Cymru.
- (3) Yn yr adran hon ystyr “hyfforddiant” yw hyfforddiant am ddiogelwch ar gludiant i ddysgwyr a gweithio gyda phlant.”.

- (b) make provision about the use, storage and retention of visual images or sound recorded on learner transport provided or secured by a relevant body;
 - (c) provide for criminal offences and penalties for breaches of requirements imposed under this section.
- (2) Regulations under subsection (1) may (among other things) confer powers or duties on any of the following—
 - (a) a relevant body;
 - (b) a person who provides learner transport secured by a relevant body.
- (3) Regulations under subsection (1) may not authorise or require recording to be carried out in a manner that is calculated to ensure that persons who are subject to it are unaware that it is or may be taking place.”.

4 Safety risk assessment of learner transport

After section 14C of the Learner Travel (Wales) Measure 2008 insert—

“14D Safety risk assessment of learner transport

- (1) Regulations may require a relevant body to carry out safety risk assessments of the learner transport it provides or otherwise secures.
- (2) Regulations under subsection (1) may—
 - (a) impose requirements as to the nature of the assessment to be carried out;
 - (b) require the production and publication of reports;
 - (c) prescribe the form and manner of publication;
 - (d) prescribe the frequency of assessments.”.

5 Driver training

After section 14D of the Learner Travel (Wales) Measure 2008 insert—

“14E Driver training

- (1) Regulations may require a relevant body that provides or otherwise secures the provision of learner transport to ensure that drivers of vehicles used for such transport have completed prescribed training to a prescribed standard.
- (2) Training and standards may be prescribed by reference to a document published, as specified in the regulations, by the Welsh Ministers.
- (3) In this section “training” means training about safety on learner transport and working with children.”.

6 Goruchwylwyr ar gludiant i ddysgwyr

Ar ôl adran 14E o Fesur Teithio gan Ddysgwyr (Cymru) 2008 rhodder –

“14F Goruchwylwyr ar gludiant i ddysgwyr

- (1) Caiff rheoliadau ddarparu ar gyfer goruchwyllo dysgwyr sy'n defnyddio cludiant i ddysgwyr a ddarperir neu a sicrheir fel arall gan gorff perthnasol.
- (2) Caiff rheoliadau o dan is-adran (1) (ymhlith pethau eraill) –
 - (a) rhoi pwerau i gorff perthnasol neu osod dyletswyddau arno;
 - (b) darparu ynghylch hyfforddiant i bersonau sy'n goruchwyllo dysgwyr.”.

7 Cosbau sifil

- (1) Ar ôl adran 14F o Fesur Teithio gan Ddysgwyr (Cymru) 2008 rhodder –

“14G Cosbau sifil

Mae i Atodlen A1 effaith.”.

- (2) Mae i Atodlen y Mesur hwn effaith.

8 Awdurdod gorfodi

Ar ôl adran 14G o Fesur Teithio gan Ddysgwyr (Cymru) 2008 rhodder –

“14H Awdurdod gorfodi

- (1) Caiff rheoliadau benodi person neu gorff (gan gynnwys Gweinidogion Cymru) i fod yn awdurdod gorfodi.
- (2) Caniateir penodi mwy nag un person neu gorff yn awdurdod gorfodi.
- (3) Caiff rheoliadau roi pwerau i awdurdod gorfodi neu osod dyletswyddau arno i orfodi darpariaeth a wneir gan adran 14A a chan reoliadau o dan adrannau 14B a 14C ac Atodlen A1 a chânt (ymhlith pethau eraill) –
 - (a) rhoi pŵer i awdurdod gorfodi i awdurdodi person (y cyfeirir ato yn y Mesur hwn fel “arolygydd”) i arfer y pwerau yn adrannau 14I a 14J,
 - (b) gwneud addasiadau i unrhyw ddeddfiad sy'n gymwys i'r awdurdod gorfodi, neu
 - (c) darparu i'r cyfryw ddeddfiad fod yn gymwys, gyda neu heb addasiadau, at ddibenion adran 14A a rheoliadau o dan adrannau 14B a 14C, yr adran hon ac Atodlen A1.
- (4) Mae cyfeiriadau yn y Mesur hwn at awdurdod gorfodi yn gyfeiriadau at berson neu gorff a benodir o dan yr adran hon ac maent yn cynnwys person a benodir gan awdurdod gorfodi.
- (5) Yn yr adran hon mae “deddfiad” yn cynnwys –
 - (a) deddfiad pryd bynnag y'i pasiwyd neu y'i gwnaed,

6 Supervisors on learner transport

After section 14E of the Learner Travel (Wales) Measure 2008 insert—

“14F Supervisors on learner transport

- (1) Regulations may make provision for the supervision of learners using learner transport provided or otherwise secured by a relevant body.
- (2) Regulations under subsection (1) may (among other things)—
 - (a) confer powers or impose duties on a relevant body;
 - (b) make provision about training for persons supervising learners.”.

7 Civil sanctions

- (1) After section 14F of the Learner Travel (Wales) Measure 2008 insert—

“14G Civil sanctions

Schedule A1 has effect.”.

- (2) The Schedule to this Measure has effect.

8 Enforcement authority

After section 14G of the Learner Travel (Wales) Measure 2008 insert—

“14H Enforcement authority

- (1) Regulations may appoint a person or body (including the Welsh Ministers) to be an enforcement authority.
- (2) More than one person or body may be appointed as an enforcement authority.
- (3) Regulations may confer powers or impose duties on an enforcement authority to enforce provision made by section 14A and by regulations under sections 14B and 14C and Schedule A1 and may (among other things)—
 - (a) confer power on an enforcement authority to authorise a person (referred to in this Measure as an “inspector”) to exercise the powers in sections 14I and 14J,
 - (b) make modifications to any enactment applying to the enforcement authority, or
 - (c) provide for any such enactment to apply, with or without modifications, for the purposes of section 14A and regulations under sections 14B and 14C, this section and Schedule A1.
- (4) References in this Measure to an enforcement authority are references to a person or body appointed under this section and include a person appointed by an enforcement authority.
- (5) In this section “enactment” includes—
 - (a) an enactment whenever passed or made,

- (b) deddfiad a geir mewn Mesur neu Ddeddf gan Gynulliad Cenedlaethol Cymru, ac
- (c) darpariaeth a geir mewn is-ddeddfwriaeth o fewn ystyr is-ddeddfwriaeth yn Neddf Dehongli 1978 (gan gynnwys is-ddeddfwriaeth a wneir o dan Fesur neu Ddeddf Cynulliad Cenedlaethol Cymru)."

9 Pŵer mynediad

Ar ôl adran 14H o Fesur Teithio gan Ddysgwyr (Cymru) 2008 rhodder –

"14I Pŵer mynediad

- (1) Mae'r adran hon yn gymwys i –
 - (a) cerbyd neu unrhyw fangre dan berchnogaeth neu reolaeth corff perthnasol;
 - (b) cerbyd neu fangre sy'n dod o fewn is-adran (2).
- (2) Cerbyd neu fangre sy'n dod o fewn yr is-adran hon yw –
 - (a) y rhai a ddefnyddir, neu y bwriedir eu defnyddio, gan unrhyw berson mewn cysylltiad â darparu cludiant i ddysgwyr a ddarperir neu a sicrheir fel arall gan gorff perthnasol, neu
 - (b) y rhai y mae arolygydd yn credu yn rhesymol eu bod yn cael eu defnyddio felly, neu y bwriedir eu defnyddio felly.
- (3) Caiff arolygydd ar unrhyw adeg resymol –
 - (a) cadw cerbyd yn gaeth;
 - (b) mynd i gerbyd neu fangre.
- (4) Ond nid yw'r pŵer yn is-adran (3) yn cynnwys y pŵer i fynd i fangre a ddefnyddir yn gyfan gwbl neu'n bennaf yn annedd breifat.
- (5) Rhaid i arolygydd sy'n arfer unrhyw bŵer a roddir o dan is-adran (3) neu adran 14J, os bydd yn ofynnol iddo wneud hynny, ddangos dogfen a awdurdodwyd yn briodol sy'n dangos bod gan yr arolygydd yr awdurdod i wneud felly."

10 Pŵer arolygu

Ar ôl adran 14I o Fesur Teithio gan Ddysgwyr (Cymru) 2008 rhodder –

"14J Pŵer arolygu

- (1) Caiff arolygydd sy'n cadw cerbyd yn gaeth neu yn mynd i mewn i gerbyd neu fangre o dan adran 14I –
 - (a) arolygu'r cerbyd neu'r fangre;
 - (b) arolygu unrhyw ddogfennau neu gofnodion sy'n ymwneud â darparu cludiant i ddysgwyr, cymryd copïau ohonynt a mynd â hwy o'r cerbyd neu'r fangre;
 - (c) arolygu unrhyw eitem arall a mynd ag ef o'r cerbyd neu'r fangre.

- (b) an enactment comprised in a Measure or Act of the National Assembly for Wales, and
- (c) provision contained in subordinate legislation within the meaning of the Interpretation Act 1978 (including subordinate legislation made under a Measure or Act of the National Assembly for Wales)."

9 Power of entry

After section 14H of the Learner Travel (Wales) Measure 2008 insert –

"14I Power of entry

- (1) This section applies to –
 - (a) a vehicle or any premises owned or controlled by a relevant body;
 - (b) a vehicle or premises falling within subsection (2).
- (2) A vehicle or premises falling within this subsection are those –
 - (a) which are used, or proposed to be used, by any person in connection with the provision of learner transport provided or otherwise secured by a relevant body, or
 - (b) which an inspector reasonably believes to be so used, or proposed to be so used.
- (3) An inspector may at any reasonable time –
 - (a) detain a vehicle;
 - (b) enter a vehicle or premises.
- (4) But the power in subsection (3) does not include the power to enter premises used wholly or mainly as a private dwelling.
- (5) An inspector exercising any power conferred under subsection (3) or section 14J must, if so required, produce some duly authenticated document showing the inspector's authority to do so."

10 Power of inspection

After section 14I of the Learner Travel (Wales) Measure 2008 insert –

"14J Power of inspection

- (1) An inspector who detains a vehicle or enters a vehicle or premises under section 14I may –
 - (a) inspect the vehicle or premises;
 - (b) inspect, take copies of and remove from the vehicle or premises any documents or records relating to the provision of learner transport;
 - (c) inspect any other item and remove it from the vehicle or premises.

- (2) Mae'r pŵer yn is-adran (1)(b) yn cynnwys –
- (a) pŵer i'w gwneud yn ofynnol i unrhyw berson sy'n dal dogfennau neu gofnodion a gedwir yn y cerbyd neu'r fangre neu sy'n gyfrifol am y dogfennau neu'r cofnodion hynny i'w dangos hwy, a
 - (b) o ran cofnodion a gedwir yn gyfrifiadurol, pŵer i'w gwneud yn ofynnol dangos y cofnodion ar ffurf y mae modd eu darllen a mynd â hwy i ffwrdd.
- (3) Nid yw'r pŵer yn is-adran (1)(b) yn cynnwys pŵer –
- (a) sy'n ei gwneud yn ofynnol i berson ddangos unrhyw ddogfennau neu gofnodion y gellid cynnal hawliad am fraint broffesiynol gyfreithiol mewn cysylltiad â hwy mewn achos cyfreithiol, neu
 - (b) i gymryd copïau o'r cyfryw ddogfennau neu gofnodion neu i fynd â hwy i ffwrdd.
- (4) Mewn cysylltiad ag arolygu'r cyfryw ddogfennau, caiff arolygydd –
- (a) mynd at unrhyw gyfrifiadur ac unrhyw gyfarpar neu ddeunydd cysylltiedig sydd yn ei dyb ef yn cael neu wedi cael ei ddefnyddio mewn cysylltiad â'r dogfennau ac arolygu a gwirio gweithrediad y cyfrifiadur, y cyfarpar cysylltiedig neu'r deunydd, a
 - (b) ei gwneud yn ofynnol i berson o fewn is-adran (5) roi unrhyw gymorth rhesymol a all fod yn ofynnol at y diben hwnnw.
- (5) Mae person o fewn yr is-adran hon –
- (a) os y person hwnnw yw'r person sy'n defnyddio'r cyfrifiadur neu a'i defnyddiodd neu'r person y defnyddir neu y defnyddiwyd y cyfrifiadur ar ei ran, neu
 - (b) os yw'r person hwnnw yn berson sydd â gofal y cyfrifiadur, y cyfarpar neu'r deunydd, neu'n ymwneud fel arall â'u gweithrediad.
- (6) Caiff arolygydd sy'n cadw cerbyd yn gaeth neu'n mynd i gerbyd neu fangre ei gwneud yn ofynnol i unrhyw berson roi unrhyw gyfleusterau neu gymorth iddo o ran materion o fewn rheolaeth y person ag sy'n angenrheidiol er mwyn ei alluogi i arfer pwerau o dan adran 14I neu'r adran hon.
- (7) Bydd unrhyw berson sydd, heb esgus rhesymol –
- (a) yn rhwystro arolygydd rhag arfer unrhyw bŵer o dan adran 14I neu'r adran hon, neu
 - (b) yn methu â chydymffurfio ag unrhyw ofyniad a osodir o dan yr adran hon,
- yn euog o dramgwydd ac yn agored, o'i gollfarnu'n ddiannod, i ddirwy nad yw'n uwch na lefel 4 ar y raddfa safonol."

11 Y pŵer i fynnu gwybodaeth

Ar ôl adran 14J o Fesur Teithio gan Ddysgwyr (Cymru) 2008 rhodder –

-
- (2) The power in subsection (1)(b) includes –
- (a) power to require any person holding or accountable for documents or records kept on the vehicle or premises to produce them, and
 - (b) in relation to records which are kept by means of a computer, power to require the records to be produced in a legible form which can be taken away.
- (3) The power in subsection (1)(b) does not include power –
- (a) to require a person to produce any document or record in respect of which a claim to legal professional privilege could be maintained in legal proceedings, or
 - (b) to take copies of such a document or record or to remove it.
- (4) In connection with inspecting any such documents, an inspector –
- (a) may obtain access to, and inspect and check the operation of, any computer and associated apparatus or material which he or she considers is or has been in use in connection with the documents, and
 - (b) may require a person within subsection (5) to afford him or her such reasonable assistance as may be required for that purpose.
- (5) A person is within this subsection if he or she is –
- (a) the person by whom or on whose behalf the computer is or has been used, or
 - (b) a person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material.
- (6) An inspector detaining a vehicle or entering a vehicle or premises may require any person to afford him or her such facilities and assistance with respect to matters within the person's control as are necessary to enable him or her to exercise powers under section 14I or this section.
- (7) Any person who without reasonable excuse –
- (a) obstructs an inspector exercising any power under section 14I or this section, or
 - (b) fails to comply with any requirement imposed under this section,
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.”.

11 Power to require provision of information

After section 14J of the Learner Travel (Wales) Measure 2008 insert –

“14K Y pŵer i fynnu gwybodaeth

- (1) Caiff awdurdod gorfodi ar unrhyw adeg ei gwneud yn ofynnol i unrhyw berson a bennir yn is-adran (2) roi iddo unrhyw wybodaeth, dogfennau, cofnodion neu eitemau eraill –
 - (a) sy'n ymwneud â darparu cludiant i ddysgwyr, a
 - (b) sydd, ym marn yr awdurdod gorfodi, yn angenrheidiol neu'n hwylus i'w cael at ddibenion ei swyddogaethau fel yr awdurdod gorfodi.
- (2) Y personau y cyfeirir atynt yn is-adran (1) yw –
 - (a) corff perthnasol;
 - (b) unrhyw berson sy'n darparu cludiant i ddysgwyr a sicheir gan gorff perthnasol.
- (3) Mae'r pŵer yn is-adran (1) yn cynnwys, mewn perthynas â gwybodaeth, dogfennau neu gofnodion a gedwir yn gyfrifiadurol, y pŵer i'w gwneud yn ofynnol eu darparu ar ffurf y mae modd eu darllen a mynd â hwy i ffwrdd.
- (4) Nid yw'r pŵer yn is-adran (1) yn cynnwys pŵer i'w gwneud yn ofynnol bod gwybodaeth, dogfennau neu gofnodion y gellid cynnal hawliad am fraint broffesiynol gyfreithiol mewn cysylltiad â hwy mewn achos cyfreithiol yn cael eu darparu.
- (5) Mae unrhyw berson sydd heb esgus rhesymol yn methu â chydymffurfio ag unrhyw ofyniad a osodir yn rhinwedd yr adran hon yn euog o dramgwydd ac yn agored, o'i gollfarnu'n ddiannod, i ddirwy nad yw'n uwch na lefel 4 ar yr raddfa safonol.”.

12 Tramgwyddau: atebolrwydd swyddogion a phartneriaid

Ar ôl adran 14K o Fesur Teithio gan Ddysgwyr (Cymru) 2008 mewnosoder –

“14L Tramgwyddau: atebolrwydd swyddogion a phartneriaid

- (1) Pan brofir bod tramgwydd o dan adran 14A, 14B neu 14C a gyflawnir gan gorff corfforaethol wedi ei gyflawni gyda chydsyniad neu gydgyllwyn swyddog o'r corff corfforaethol, neu i'w briodoli i unrhyw esgeulustod ar ran swyddog o'r corff corfforaethol, caiff rheoliadau ddarparu y bydd y swyddog yn atebol yn ogystal â'r corff corfforaethol ei hun.
- (2) Pan brofir bod tramgwydd o dan adran 14A, 14B neu 14C a gyflawnir gan bartneriaeth wedi ei gyflawni gyda chydsyniad neu gydgyllwyn partner yn y bartneriaeth, neu i'w briodoli i unrhyw esgeulustod ar ran partner yn y bartneriaeth, caiff rheoliadau ddarparu y bydd y partner yn atebol yn ogystal â'r bartneriaeth ei hun.”.

13 Rheoliadau: ymgynghori

Ar ôl 14L o Fesur Teithio gan Ddysgwyr (Cymru) mewnosoder –

“14K Power to require provision of information

- (1) An enforcement authority may at any time require any person specified in subsection (2) to provide it with any information, documents, records or other items –
 - (a) which relate to the provision of learner transport, and
 - (b) which the enforcement authority consider necessary or expedient to have for the purpose of its functions as the enforcement authority.
- (2) The persons referred to in subsection (1) are –
 - (a) a relevant body;
 - (b) any person who provides learner transport secured by a relevant body.
- (3) The power in subsection (1) includes, in relation to information, documents or records kept by means of a computer, power to require provision of them in a legible form which can be taken away.
- (4) The power in subsection (1) does not include power to require the provision of information, documents or records in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
- (5) Any person who without reasonable excuse fails to comply with any requirement imposed by virtue of this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.”.

12 Offences: liability of officers and partners

After section 14K of the Learner Travel (Wales) Measure 2008 insert –

“14L Offences: liability of officers and partners

- (1) Where an offence under section 14A, 14B or 14C committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, an officer of the body corporate, regulations may provide for the officer to be liable as well as the body corporate itself.
- (2) Where an offence under section 14A, 14B or 14C committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner of the partnership, regulations may provide for the partner to be liable as well as the partnership itself.”.

13 Regulations: consultation

After 14L of the Learner Travel (Wales) Measure 2008 insert –

"14M Rheoliadau: ymgynghori

Rhaid i Weinidogion Cymru ymgynghori â phob awdurdod lleol ac ag unrhyw bersonau eraill y mae yn eu barn hwy yn briodol ymgynghori â hwy cyn gwneud unrhyw reoliadau o dan adrannau 14B i 14F, adran 14H neu 14L neu Atodlen A1."

14 Dehongli

Ar ôl adran 14M o Fesur Teithio gan Ddysgwyr (Cymru) 2008 mewnosoder –

"14N Dehongli adrannau 14A i 14K

- (1) Mae'r adran hon yn gymwys at ddibenion adrannau 14A i 14K.
- (2) Mae pob un o'r canlynol yn "gorff perthnasol" –
 - (a) awdurdod lleol;
 - (b) corff llywodraethu ysgol a gynhelir.
- (3) Ystyr "cludiant i ddysgwyr" yw cludiant i'w gwneud yn hwylus i blentyn fynychu unrhyw fan perthnasol lle y caiff addysg neu hyfforddiant; ond nid yw'n cynnwys cludiant a ddarperir er mwyn teithio yn ystod y dydd rhwng manau perthnasol neu rhwng safleoedd gwahanol o'r un sefydliad.
- (4) Nid yw'r weithred o wneud unrhyw un o'r trefniadau a ganlyn i'w hystyried, ynddi'i hun, fel petai'n darparu cludiant i ddysgwyr neu'n sicrhau fel arall bod cludiant i ddysgwyr yn cael ei ddarparu.
- (5) Y trefniadau a grybwyllir yn is-adran (4) yw –
 - (a) trefniadau i dalu'r cyfan neu unrhyw ran o dreuliau teithio rhesymol person;
 - (b) trefniadau i dalu lwfansau mewn cysylltiad â defnyddio cludiant.
- (6) Caiff Gweinidogion Cymru, drwy orchymyn, ddiwygio is-adran (3) yn y fath fodd ag i hepgor y geiriau o "ond nid yw'n cynnwys" hyd at ddiwedd yr is-adran."

15 Darpariaethau cyffredinol am orchmynion a rheoliadau

- (1) Diwygier adran 27 o Fesur Teithio gan Ddysgwyr (Cymru) 2008 (gorchmynion a rheoliadau) fel a ganlyn.
- (2) Yn is-adran (2) –
 - (a) ym mharagraff (a), ar ôl "neu" rhodder "ddosbarthau ar achos neu ddibenion gwahanol neu";
 - (b) ar ôl paragraff (a) mewnosoder –
 - "(aa)i wneud darpariaeth yn ddarostyngedig i esemptiadau neu eithriadau penodedig";
 - (c) ym mharagraff (b), ar ôl "achosion" mewnosoder "neu ddosbarthau ar achos".
- (3) Yn is-adran (3), hepgorer "adran 7 neu adran 8" a rhodder "7, 8, 14B, 14C, 14D, 14E, 14F, 14H neu 14L neu Atodlen A1".
- (4) Ar ôl is-adran (4), mewnosoder –

“14M Regulations: consultation

The Welsh Ministers must consult each local authority and such other persons as they consider appropriate before making any regulations under sections 14B to 14F, section 14H or 14L or Schedule A1.”.

14 Interpretation

After section 14M of the Learner Travel (Wales) Measure 2008 insert –

“14N Interpretation of sections 14A to 14K

- (1) This section applies for the purposes of sections 14A to 14K.
- (2) Each of the following is a “relevant body” –
 - (a) a local authority;
 - (b) a governing body of a maintained school.
- (3) “Learner transport” means transport to facilitate the attendance of a child at any relevant place where he or she receives education or training; but it does not include transport provided for the purpose of travel during the day between relevant places or between different sites of the same institution.
- (4) The act of making any of the following arrangements is not to be considered, by itself, as providing or otherwise securing the provision of learner transport.
- (5) The arrangements mentioned in subsection (4) are –
 - (a) arrangements to pay the whole or any part of a person’s reasonable travelling expenses;
 - (b) arrangements to pay allowances in respect of the use of transport.
- (6) The Welsh Ministers may by order amend subsection (3) so as to omit the words from “but it does not include” to the end of the subsection.”.

15 General provisions about orders and regulations

- (1) Section 27 of the Learner Travel (Wales) Measure 2008 (orders and regulations) is amended as follows.
- (2) In subsection (2) –
 - (a) in paragraph (a), after “or” insert “classes of case or different purposes or”;
 - (b) after paragraph (a) insert –
 - “(aa) make provision subject to specified exemptions or exceptions;”;
 - (c) in paragraph (b), after “cases” insert “or classes of case”.
- (3) In subsection (3), omit “or 8” and insert “, 8, 14B, 14C, 14D, 14E, 14F, 14H or 14L or Schedule A1”.
- (4) After subsection (4) insert –

“(4A) Wrth gymhwyso is-adran (4) i reoliadau a wneir o dan adrannau 14B i 14F, adran 14H neu 14L neu Atodlen A1 mae’r cyfeiriad at “y Mesur hwn” yn is-adran (4) i’w ddehongli fel cyfeiriad at Fesur Teithio gan Ddysgwyr (Cymru) 2011.”.

(5) Yn is-adran (7)–

(a) ym mharagraff (d) hepgorer “neu”;

(b) ar ôl paragraff (d) mewnosoder–

“(da) rheoliadau o dan adran 14B, 14C, 14D, 14E, 14F, 14H neu 14L neu Atodlen A1, neu

(db) gorchymyn o dan adran 14N(6).”.

16 Cychwyn

(1) Mae adran 1 yn dod i rym ar 1 Hydref 2014.

(2) Daw gweddill darpariaethau’r Mesur hwn i rym ar ddiwedd cyfnod o ddau fis sy’n dechrau ar y diwrnod y caiff y Mesur hwn ei gymeradwyo gan Ei Mawrhydi yn y Cyfrin Gyngor.

17 Enw byr

Enw’r Mesur hwn yw Mesur Diogelwch ar Gludiant i Ddysgwyr (Cymru) 2011.

“(4A) In the application of subsection (4) to regulations made under sections 14B to 14F, section 14H or 14L or Schedule A1 the reference to “this Measure” in subsection (4) is to be interpreted as a reference to the Safety on Learner Transport (Wales) Measure 2011.”.

(5) In subsection (7) –

(a) in paragraph (d) omit “or”;

(b) after paragraph (d) insert –

“(da) regulations under section 14B, 14C, 14D, 14E, 14F, 14H or 14L or Schedule A1, or

(db) an order under section 14N(6).”.

16 Commencement

(1) Section 1 comes into force on 1 October 2014.

(2) The remaining provisions of this Measure come into force at the end of a period of two months beginning on the day on which this Measure is approved by Her Majesty in Council.

17 Short title

This Measure may be cited as the Safety on Learner Transport (Wales) Measure 2011.

ATODLEN

(a gyflwynwyd gan adran 7)

COSBAU SIFIL

Diwygiadau i Fesur Teithio gan Ddysgwyr (Cymru) 2008

Ar ôl adran 29 o Fesur Teithio gan Ddysgwyr (Cymru) 2008 mewnosoder –

“ATODLEN A1

(a gyflwynwyd gan adran 14G)

COSBAU SIFIL

Cosbau sifil

- 1 (1) Caiff rheoliadau ddarparu ynghylch cosbau sifil am dorri rheoliadau diogelwch.
- (2) At ddibenion yr Atodlen hon, mae person yn torri rheoliadau diogelwch os yw'r person, o dan amgylchiadau a bennir –
 - (a) yn methu â chydymffurfio â gofyniad a wneir gan neu o dan reoliadau diogelwch, neu
 - (b) yn rhwystro neu'n methu â chynorthwyo awdurdod gorfodi.
- (3) Yn yr Atodlen hon –

ystyr “cosb sifil” yw –

 - (a) cosb ariannol benodedig (gweler paragraff 2),
 - (b) gofyniad yn ôl disgrisiwn (gweler paragraff 4),
 - (c) hysbysiad stop (gweler paragraff 7), neu
 - (d) ymgymeriad gorfodi (gweler paragraff 11);

ystyr “rheoliadau diogelwch” yw rheoliadau a wneir o dan adran 14B neu 14C.

Cosbau ariannol penodedig

- 2 (1) Caiff y rheoliadau wneud darpariaeth sy'n rhoi'r pŵer i awdurdod gorfodi i osod drwy hysbysiad gosb ariannol benodedig ar berson sy'n torri rheoliadau diogelwch.
- (2) Ni chaiff y rheoliadau roi'r cyfryw bŵer ond mewn perthynas ag achos pan fo'r awdurdod gorfodi wedi ei fodloni yn ôl pwysau tebygolrwydd fod y rheoliadau wedi eu torri.
- (3) At ddibenion yr Atodlen hon, gofyniad i dalu cosb i awdurdod gorfodi a'r gosb honno yn un o swm a bennir neu y penderfynir arno yn unol â'r rheoliadau yw “cosb ariannol benodedig”.
- (4) Ni chaiff y rheoliadau ddarparu am osod cosb ariannol benodedig uwch na £5,000.

SCHEDULE
(introduced by section 7)

CIVIL SANCTIONS

Amendments to Learner Travel (Wales) Measure 2008

After section 29 of the Learner Travel (Wales) Measure 2008 insert—

“SCHEDULE A1
(introduced by section 14G)

CIVIL SANCTIONS

Civil sanctions

- 1 (1) Regulations may make provision about civil sanctions for breaches of safety regulations.
- (2) For the purposes of this Schedule a person breaches safety regulations if, in such circumstances as may be prescribed, the person—
 - (a) fails to comply with a requirement made by or under the safety regulations, or
 - (b) obstructs or fails to assist an enforcement authority.
- (3) In this Schedule—

“civil sanction” means—

 - (a) a fixed monetary penalty (see paragraph 2),
 - (b) a discretionary requirement (see paragraph 4),
 - (c) a stop notice (see paragraph 7), or
 - (d) an enforcement undertaking (see paragraph 11);

“safety regulations” means regulations made under section 14B or 14C.

Fixed monetary penalties

- 2 (1) The regulations may make provision conferring on an enforcement authority the power by notice to impose a fixed monetary penalty on a person who breaches safety regulations.
- (2) The regulations may only confer such a power in relation to a case where the enforcement authority is satisfied on the balance of probabilities that the breach has occurred.
- (3) For the purposes of this Schedule a “fixed monetary penalty” is a requirement to pay to an enforcement authority a penalty of an amount specified in or determined in accordance with the regulations.
- (4) The regulations may not provide for the imposition of a fixed monetary penalty in excess of £5,000.

Cosbau ariannol benodedig: y weithdrefn

- 3 (1) Rhaid i ddarpariaeth o dan baragraff 2 sicrhau –
- (a) pan fo awdurdod gorfodi yn bwriadu gosod cosb ariannol benodedig ar berson, bod rhaid i'r awdurdod gorfodi gyflwyno hysbysiad o'r hyn a fwriedir ("hysbysiad o fwriad") i'r person hwnnw a'r hysbysiad hwnnw'n cydymffurfio ag is-baragraff (2),
 - (b) bod yr hysbysiad o fwriad hefyd yn cynnig y cyfle i'r person ei ryddhau ei hun o'i atebolrwydd i dalu'r gosb ariannol benodedig drwy dalu swm penodedig (y mae'n rhaid iddo fod yn llai na swm y gosb neu gyfwerth â'r swm hwnnw),
 - (c) os nad yw'r person yn ei ryddhau ei hun o'r atebolrwydd yn y ffordd hon –
 - (i) y caiff y person gyflwyno sylwadau a gwrthwynebiadau ysgrifenedig i'r awdurdod gorfodi mewn perthynas â'r bwriad i osod cosb ariannol benodedig, a
 - (ii) ar ddiwedd y cyfnod ar gyfer cyflwyno sylwadau a gwrthwynebiadau, bod rhaid i'r awdurdod gorfodi benderfynu p'un ai gosod y gosb ariannol benodedig ai peidio,
 - (d) pan fo'r awdurdod gorfodi yn penderfynu gosod y gosb ariannol benodedig, bod yr hysbysiad sy'n ei gosod ("yr hysbysiad terfynol") yn cydymffurfio ag is-baragraff (4), ac
 - (e) bod y person y gosodir cosb ariannol benodedig arno yn cael apelio yn erbyn y penderfyniad i'w osod.
- (2) I gydymffurfio â'r is-baragraff hwn, rhaid i'r hysbysiad o fwriad gynnwys gwybodaeth am –
- (a) y seiliau dros y bwriad i osod y gosb ariannol benodedig,
 - (b) effaith talu'r swm y cyfeirir ato yn is-baragraff (1)(b),
 - (c) yr hawl i gyflwyno sylwadau a gwrthwynebiadau,
 - (d) yr amgylchiadau pryd na chaiff yr awdurdod gorfodi osod y gosb ariannol benodedig,
 - (e) y cyfnod pryd y caniateir i berson ei ryddhau ei hun o'i atebolrwydd i dalu'r gosb ariannol benodedig, nas caniateir i fod yn fwy na'r cyfnod o 28 diwrnod sy'n dechrau ar y diwrnod pryd y cafwyd yr hysbysiad o fwriad, ac
 - (f) y cyfnod pryd y caniateir cyflwyno sylwadau a gwrthwynebiadau, nas caniateir i fod yn fwy na'r 28 diwrnod sy'n dechrau ar y diwrnod y cafwyd yr hysbysiad o fwriad.
- (3) Rhaid i ddarpariaeth yn unol ag is-baragraff (1)(c)(ii) gynnwys darpariaeth am amgylchiadau pryd na chaniateir i'r awdurdod gorfodi benderfynu gosod cosb ariannol benodedig.
- (4) I gydymffurfio â'r is-baragraff hwn rhaid i'r hysbysiad terfynol y cyfeirir ato yn is-baragraff (1)(d) gynnwys gwybodaeth am –
- (a) y seiliau dros osod y gosb,
 - (b) sut y caniateir i'r taliad gael ei wneud,
 - (c) y cyfnod pryd y mae'n rhaid gwneud y taliad,

Fixed monetary penalties: procedure

- 3 (1) Provision under paragraph 2 must secure that—
 - (a) where an enforcement authority proposes to impose a fixed monetary penalty on a person, the enforcement authority must serve on that person a notice of what is proposed (a “notice of intent”) that complies with sub-paragraph (2),
 - (b) the notice of intent also offers the person the opportunity to discharge the person’s liability for the fixed monetary penalty by payment of a specified sum (which must be less than or equal to the amount of the penalty),
 - (c) if the person does not so discharge liability—
 - (i) the person may make written representations and objections to the enforcement authority in relation to the proposed imposition of the fixed monetary penalty, and
 - (ii) the enforcement authority must at the end of the period for making representations and objections decide whether to impose the fixed monetary penalty,
 - (d) where the enforcement authority decides to impose the fixed monetary penalty, the notice imposing it (“the final notice”) complies with sub-paragraph (4), and
 - (e) the person on whom a fixed monetary penalty is imposed may appeal against the decision to impose it.
- (2) To comply with this sub-paragraph the notice of intent must include information as to—
 - (a) the grounds for the proposal to impose the fixed monetary penalty,
 - (b) the effect of payment of the sum referred to in sub-paragraph (1)(b),
 - (c) the right to make representations and objections,
 - (d) the circumstances in which the enforcement authority may not impose the fixed monetary penalty,
 - (e) the period within which liability to the fixed monetary penalty may be discharged, which may not exceed the period of 28 days beginning with the day on which the notice of intent was received, and
 - (f) the period within which representations and objections may be made, which may not exceed the period of 28 days beginning with the day on which the notice of intent was received.
- (3) Provision pursuant to sub-paragraph (1)(c)(ii) must include provision for circumstances in which the enforcement authority may not decide to impose a fixed monetary penalty.
- (4) To comply with this sub-paragraph the final notice referred to in sub-paragraph (1)(d) must include information as to—
 - (a) the grounds for imposing the penalty,
 - (b) how payment may be made,
 - (c) the period within which payment must be made,

- (d) unrhyw ddisgowntiau am wneud taliadau cynnar neu gosbau am wneud taliadau hwyr,
 - (e) hawliau apelio, ac
 - (f) canlyniadau peidio â thalu.
- (5) Rhaid i ddarpariaeth yn unol ag is-baragraff (1)(e) sicrhau bod y seiliau y caniateir i berson apelio arnynt yn erbyn penderfyniad gan yr awdurdod gorfodi yn cynnwys y canlynol—
- (a) bod y penderfyniad wedi ei wneud ar sail camgymeriad ffeithiol;
 - (b) bod y penderfyniad yn anghywir o ran y gyfraith;
 - (c) bod y penderfyniad yn afresymol.

Gofynion yn ôl disgrisiwn

- 4 (1) Caiff y rheoliadau wneud darpariaeth sy'n rhoi'r pŵer i awdurdod gorfodi osod, drwy hysbysiad, un neu ragor o ofynion yn ôl disgrisiwn ar berson sy'n torri rheoliadau diogelwch.
- (2) Ni chaiff y rheoliadau roi'r cyfryw bŵer ond mewn perthynas ag achos pan fo'r awdurdod gorfodi wedi ei fodloni yn ôl pwysau tebygolrwydd fod y rheoliadau wedi eu torri.
- (3) At ddibenion yr Atodlen hon ystyr "gofyniad yn ôl disgrisiwn" yw—
- (a) gofyniad i dalu cosb ariannol i awdurdod gorfodi o swm y caniateir i'r awdurdod gorfodi ei benderfynu, neu
 - (b) gofyniad i gymryd unrhyw gamau a bennir gan awdurdod gorfodi, cyn pen cyfnod a bennir gan yr awdurdod gorfodi, er mwyn sicrhau nad yw'r toriad yn parhau neu'n digwydd eto.
- (4) Yn yr Atodlen hon—
- ystyr "cosb ariannol amrywiadwy" yw gofyniad y cyfeirir ato yn is-baragraff (3)(a);
- ystyr "gofyniad heb fod yn ariannol yn ôl disgrisiwn" yw gofyniad y cyfeirir ato yn is-baragraff (3)(b).
- (5) Rhaid i'r rheoliadau, mewn perthynas â phob math o doriad o reoliadau diogelwch y caniateir gosod cosb amrywiadwy amdano—
- (a) pennu'r gosb uchaf y caniateir ei gosod am doriad o'r math hwnnw, neu
 - (b) darparu am benderfynu'r gosb uchaf honno yn unol â'r rheoliadau.
- (6) Ni chaiff y rheoliadau ganiatáu gosod gofynion yn ôl disgrisiwn ar berson ar ragor nag un achlysur mewn perthynas â'r un weithred neu anwaith.

Gofynion yn ôl disgrisiwn: y weithdrefn

- 5 (1) Rhaid i ddarpariaeth o dan baragraff 4 sicrhau—
- (a) pan fo awdurdod gorfodi yn bwriadu gosod gofyniad yn ôl disgrisiwn ar berson, bod rhaid i'r awdurdod gorfodi gyflwyno hysbysiad o'r hyn a fwriedir ("hysbysiad o fwriad") i'r person hwnnw a'r hysbysiad hwnnw yn cydymffurfio ag is-baragraff (2),

- (d) any early payment discounts or late payment penalties,
 - (e) rights of appeal, and
 - (f) the consequences of non-payment.
- (5) Provision pursuant to sub-paragraph (1)(e) must secure that the grounds on which a person may appeal against a decision of the enforcement authority include the following—
- (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unreasonable.

Discretionary requirements

- 4 (1) The regulations may make provision conferring on an enforcement authority the power by notice to impose one or more discretionary requirements on a person who breaches safety regulations.
- (2) The regulations may only confer such a power in relation to a case where the enforcement authority is satisfied on the balance of probabilities that the breach has occurred.
- (3) For the purposes of this Schedule a “discretionary requirement” means—
- (a) a requirement to pay a monetary penalty to an enforcement authority of such amount as the enforcement authority may determine, or
 - (b) a requirement to take such steps as an enforcement authority may specify, within such period as the enforcement authority may specify, to secure that the breach does not continue or recur.
- (4) In this Schedule—
- “variable monetary penalty” means a requirement referred to in sub-paragraph (3)(a);
- “non-monetary discretionary requirement” means a requirement referred to in sub-paragraph (3)(b).
- (5) The regulations must, in relation to each kind of breach of safety regulations for which a variable monetary penalty may be imposed—
- (a) specify the maximum penalty that may be imposed for a breach of that kind, or
 - (b) provide for that maximum to be determined in accordance with the regulations.
- (6) The regulations may not permit discretionary requirements to be imposed on a person on more than one occasion in relation to the same act or omission.

Discretionary requirements: procedure

- 5 (1) Provision under paragraph 4 must secure that—
- (a) where an enforcement authority proposes to impose a discretionary requirement on a person, the enforcement authority must serve on that person a notice of what is proposed (a “notice of intent”) that complies with sub-paragraph (2),

- (b) y caiff y person hwnnw gyflwyno sylwadau a gwrthwynebiadau ysgrifenedig i'r awdurdod gorfodi mewn perthynas â'r bwriad i osod gofyniad yn ôl disgrisiwn,
 - (c) ar ôl diwedd y cyfnod ar gyfer cyflwyno'r cyfryw sylwadau a gwrthwynebiadau, rhaid i'r awdurdod gorfodi benderfynu p'un ai—
 - (i) i osod y gofyniad yn ôl disgrisiwn, gyda neu heb addasiadau, neu
 - (ii) i osod unrhyw ofyniad arall yn ôl disgrisiwn y mae gan yr awdurdod gorfodi y pŵer i'w osod o dan baragraff 4,
 - (d) pan fo'r awdurdod gorfodi yn penderfynu gosod gofyniad yn ôl disgrisiwn, bod yr hysbysiad sy'n ei osod (yr "hysbysiad terfynol") yn cydymffurfio ag is-baragraff (4), ac
 - (e) bod y person y gosodir gofyniad yn ôl disgrisiwn arno yn cael apelio yn erbyn y penderfyniad i'w osod.
- (2) I gydymffurfio â'r is-baragraff hwn, rhaid i'r hysbysiad o fwriad gynnwys gwybodaeth am—
- (a) y seiliau dros y bwriad i osod y gofyniad yn ôl disgrisiwn;
 - (b) yr hawl i gyflwyno sylwadau a gwrthwynebiadau;
 - (c) yr amgylchiadau pryd na chaiff yr awdurdod gorfodi osod y gofyniad yn ôl disgrisiwn;
 - (d) y cyfnod pryd y caniateir cyflwyno sylwadau ac gwrthwynebiadau, nas caniateir i fod yn fwy na'r 28 diwrnod sy'n dechrau ar y diwrnod y cafwyd yr hysbysiad o fwriad.
- (3) Rhaid i ddarpariaeth yn unol ag is-baragraff (1)(c) gynnwys darpariaeth am amgylchiadau pryd na chaniateir i'r awdurdod gorfodi benderfynu gosod gofyniad yn ôl disgrisiwn.
- (4) I gydymffurfio â'r is-baragraff hwn rhaid i'r hysbysiad terfynol y cyfeirir ato yn is-baragraff (1)(d) gynnwys gwybodaeth am—
- (a) y seiliau dros osod y gofyniad yn ôl disgrisiwn,
 - (b) pan fo'r gofyniad yn ôl disgrisiwn yn gosb ariannol amrywiadwy—
 - (i) sut y caniateir i'r taliad gael ei wneud,
 - (ii) y cyfnod pryd y mae'n rhaid gwneud y taliad, a
 - (iii) unrhyw ddisgowntiau am wneud taliadau cynnar neu gosbau am wneud taliadau hwyr,
 - (c) hawliau apelio, a
 - (d) canlyniadau peidio â chydymffurfio.
- (5) Rhaid i ddarpariaeth yn unol ag is-baragraff (1)(e) sicrhau bod y seiliau y caniateir i berson apelio arnynt yn erbyn penderfyniad gan yr awdurdod gorfodi yn cynnwys y canlynol—
- (a) bod y penderfyniad wedi ei wneud ar sail camgymeriad ffeithiol;
 - (b) bod y penderfyniad yn anghywir o ran y gyfraith;

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- (b) that person may make written representations and objections to the enforcement authority in relation to the proposed imposition of the discretionary requirement,
 - (c) after the end of the period for making such representations and objections, the enforcement authority must decide whether to—
 - (i) impose the discretionary requirement, with or without modifications, or
 - (ii) impose any other discretionary requirement that the enforcement authority has power to impose under paragraph 4,
 - (d) where the enforcement authority decides to impose a discretionary requirement, the notice imposing it (the “final notice”) complies with sub-paragraph (4), and
 - (e) the person on whom a discretionary requirement is imposed may appeal against the decision to impose it.
- (2) To comply with this sub-paragraph the notice of intent must include information as to—
- (a) the grounds for the proposal to impose the discretionary requirement;
 - (b) the right to make representations and objections;
 - (c) the circumstances in which the enforcement authority may not impose the discretionary requirement;
 - (d) the period within which representations and objections may be made, which may not be less than the period of 28 days beginning with the day on which the notice of intent is received.
- (3) Provision pursuant to sub-paragraph (1)(c) must include provision for circumstances in which the enforcement authority may not decide to impose a discretionary requirement.
- (4) To comply with this sub-paragraph the final notice referred to in sub-paragraph (1)(d) must include information as to—
- (a) the grounds for imposing the discretionary requirement,
 - (b) where the discretionary requirement is a variable monetary penalty—
 - (i) how payment may be made,
 - (ii) the period within which payment must be made, and
 - (iii) any early payment discounts or late payment penalties,
 - (c) rights of appeal, and
 - (d) the consequences of non-compliance.
- (5) Provision pursuant to sub-paragraph (1)(e) must secure that the grounds on which a person may appeal against a decision of the enforcement authority include the following—
- (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;

- (c) yn achos cosb ariannol amrywiadwy, bod swm y gosb yn afresymol;
- (d) yn achos gofyniad heb fod yn ariannol yn ôl disgrisiwn, bod natur y gofyniad yn afresymol;
- (e) bod y penderfyniad yn afresymol am unrhyw reswm arall.

Gofynion yn ôl disgrisiwn: gorfodi

- 6 (1) Caiff darpariaeth o dan baragraff 4 gynnwys darpariaeth i berson dalu cosb ariannol (“cosb am beidio â chydymffurfio”) i awdurdod gorfodi os yw’r person yn methu â chydymffurfio â gofyniad heb fod yn ariannol yn ôl disgrisiwn a osodir ar y person.
- (2) Caiff darpariaeth o dan is-baragraff (1) –
- (a) pennu swm y gosb am beidio â chydymffurfio neu ddarparu i’r swm hwnnw gael ei benderfynu yn unol â’r rheoliadau, neu
 - (b) darparu i’r swm gael ei benderfynu gan yr awdurdod gorfodi neu drwy rhyw ffordd arall.
- (3) Os yw rheoliadau yn gwneud darpariaeth o fewn is-baragraff (2)(b), rhaid iddynt, mewn perthynas â phob math o fethiant y caniateir gosod cosb am beidio â chydymffurfio –
- (a) pennu’r gosb uchaf y caniateir ei gosod am fethiant o’r math hwnnw, neu
 - (b) darparu am benderfynu’r gosb uchaf honno yn unol â’r rheoliadau.
- (4) Rhaid i ddarpariaeth o dan is-baragraff (1) sicrhau –
- (a) bod y gosb am beidio â chydymffurfio yn cael ei gosod drwy hysbysiad a gyflwynir gan yr awdurdod gorfodi, a
 - (b) bod y person y gosodir hi arno yn cael apelio yn erbyn yr hysbysiad hwnnw.
- (5) Rhaid i ddarpariaeth yn unol â pharagraff (b) o is-baragraff (4) sicrhau bod y seiliau y caniateir i berson apelio arnynt yn erbyn hysbysiad y cyfeirir ato yn yr is-baragraff hwnnw yn cynnwys y canlynol –
- (a) bod y penderfyniad i gyflwyno’r hysbysiad wedi ei seilio ar gamgymeriad ffeithiol;
 - (b) bod y penderfyniad yn anghywir o ran y gyfraith;
 - (c) bod y penderfyniad yn annheg neu’n afresymol am unrhyw reswm (gan gynnwys, mewn achos pan benderfynwyd swm y gosb am beidio â chydymffurfio gan yr awdurdod gorfodi, bod y swm yn afresymol).

Hysbysiadau stop

- 7 (1) Caiff y rheoliadau roi i awdurdod gorfodi y pŵer i gyflwyno hysbysiad stop i berson.
- (2) At ddibenion yr Atodlen hon “hysbysiad stop” yw hysbysiad sy’n atal person rhag cyflawni gweithgaredd a bennir yn yr hysbysiad hyd nes i’r person gymryd y camau a bennir yn yr hysbysiad.
- (3) Ni chaiff darpariaeth o dan y paragraff hwn ond rhoi’r cyfryw bŵer mewn perthynas ag achos sy’n dod o fewn is-baragraff (4) neu (5).
- (4) Mae achos yn dod o fewn yr is-baragraff hwn pan fo –
- (a) y person yn cyflawni’r gweithgaredd,

- (c) in the case of a variable monetary penalty, that the amount of the penalty is unreasonable;
- (d) in the case of a non-monetary discretionary requirement, that the nature of the requirement is unreasonable;
- (e) that the decision was unreasonable for any other reason.

Discretionary requirements: enforcement

- 6 (1) Provision under paragraph 4 may include provision for a person to pay a monetary penalty (a “non-compliance penalty”) to an enforcement authority if the person fails to comply with a non-monetary discretionary requirement imposed on the person.
- (2) Provision under sub-paragraph (1) may –
- (a) specify the amount of the non-compliance penalty or provide for that amount to be determined in accordance with the regulations, or
 - (b) provide for the amount to be determined by the enforcement authority or in some other way.
- (3) If the regulations make provision within sub-paragraph (2)(b), they must, in relation to each kind of failure for which a non-compliance penalty may be imposed –
- (a) specify the maximum penalty that may be imposed for a failure of that kind, or
 - (b) provide for that maximum to be determined in accordance with the regulations.
- (4) Provision under sub-paragraph (1) must secure that –
- (a) the non-compliance penalty is imposed by notice served by the enforcement authority, and
 - (b) the person on whom it is imposed may appeal against that notice.
- (5) Provision pursuant to paragraph (b) of sub-paragraph (4) must secure that the grounds on which a person may appeal against a notice referred to in that sub-paragraph include the following –
- (a) that the decision to serve the notice was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unfair or unreasonable for any reason (including, in a case where the amount of the non-compliance penalty was determined by the enforcement authority, that the amount is unreasonable).

Stop notices

- 7 (1) The regulations may confer on an enforcement authority the power to serve a stop notice on a person.
- (2) For the purposes of this Schedule a “stop notice” is a notice prohibiting a person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice.
- (3) Provision under this paragraph may only confer such a power in relation to a case falling within sub-paragraph (4) or (5).
- (4) A case falling within this sub-paragraph is a case where –
- (a) the person is carrying on the activity,

- (b) yr awdurdod gorfodi yn credu'n rhesymol bod y gweithgaredd fel y'i cyflawnir gan y person hwnnw yn achosi, neu'n peri risg arwyddocaol o achosi, niwed difrifol i iechyd pobl, ac
 - (c) yr awdurdod gorfodi yn credu bod y gweithgaredd fel y'i cyflawnir gan y person hwnnw yn cynnwys neu'n debygol o gynnwys toriad yn y rheoliadau a wneir o dan adran 14B gan y person hwnnw.
- (5) Mae achos yn dod o fewn yr is-baragraff hwn pan fo'r awdurdod gorfodi yn credu'n rhesymol—
- (a) bod y person yn debygol o gyflawni'r gweithgaredd,
 - (b) y bydd y gweithgaredd, o'i gyflawni yn y ffordd y mae'r person hwnnw yn debygol o'i gyflawni, yn achosi, neu'n peri risg arwyddocaol o achosi, niwed difrifol i iechyd pobl, ac
 - (c) y bydd y gweithgaredd, o'i gyflawni yn y ffordd y mae'r person hwnnw yn debygol o'i gyflawni yn cynnwys neu'n debygol o gynnwys toriad yn y rheoliadau o dan adran 14B gan y person hwnnw.
- (6) Rhaid i'r camau y cyfeirir atynt yn is-baragraff (2) fod yn gamau i ddileu neu leihau'r niwed neu'r risg o niwed y cyfeirir ato yn is-baragraff (4)(b) neu (5)(b).

Hysbysiadau stop: y weithdrefn

- 8 (1) Rhaid i ddarpariaeth o dan baragraff 7 sicrhau'r canlyniadau yn is-baragraff (2) mewn achos pan fo hysbysiad stop yn cael ei gyflwyno.
- (2) Dyma'r canlyniadau hynny—
- (a) rhaid i'r hysbysiad stop gydymffurfio ag is-baragraff (3),
 - (b) caiff y person y cyflwynir ef iddo apelio yn erbyn y penderfyniad i'w gyflwyno,
 - (c) pan fo'r awdurdod gorfodi, ar ôl i'r hysbysiad gael ei gyflwyno, yn fodlon bod y person wedi cymryd y camau a bennir yn yr hysbysiad, rhaid i'r awdurdod gorfodi ddyroddi tystysgrif i ardystio i'r perwyl hwnnw ("tystysgrif gwblhau"),
 - (d) mae'r hysbysiad yn peidio â bod yn effeithiol wrth i dystysgrif gwblhau gael ei dyroddi,
 - (e) caiff y person y cyflwynwyd yr hysbysiad iddo wneud cais ar unrhyw bryd am dystysgrif gwblhau,
 - (f) rhaid i'r awdurdod gorfodi benderfynu p'un ai i ddyroddi tystysgrif gwblhau ai peidio a hynny cyn pen 14 o ddiwrnodau ar ôl i'r cyfryw gais gael ei wneud, ac
 - (g) caiff y person y cyflwynwyd yr hysbysiad iddo apelio yn erbyn penderfyniad i beidio â dyroddi tystysgrif gwblhau.
- (3) I gydymffurfio â'r is-baragraff hwn rhaid i hysbysiad stop gynnwys gwybodaeth am—
- (a) y seiliau dros gyflwyno'r hysbysiad,
 - (b) hawliau apelio, ac
 - (c) canlyniadau peidio â chydymffurfio.

- (b) the enforcement authority reasonably believes that the activity as carried on by that person is causing, or presents a significant risk of causing, serious harm to human health, and
 - (c) the enforcement authority believes that the activity as carried on by that person involves or is likely to involve a breach of regulations made under section 14B by that person.
- (5) A case falling within this sub-paragraph is a case where the enforcement authority reasonably believes that—
- (a) the person is likely to carry on the activity,
 - (b) the activity as likely to be carried on by that person will cause, or will present a significant risk of causing, serious harm to human health, and
 - (c) the activity as likely to be carried on by that person will involve or will be likely to involve a breach of regulations under section 14B by that person.
- (6) The steps referred to in sub-paragraph (2) must be steps to remove or reduce the harm or risk of harm referred to in sub-paragraph (4)(b) or (5)(b).

Stop notices: procedure

- 8 (1) Provision under paragraph 7 must secure the results in sub-paragraph (2) in a case where a stop notice is served.
- (2) Those results are that—
- (a) the stop notice must comply with sub-paragraph (3),
 - (b) the person on whom it is served may appeal against the decision to serve it,
 - (c) where, after service of the notice, the enforcement authority is satisfied that the person has taken the steps specified in the notice, the enforcement authority must issue a certificate to that effect (a “completion certificate”),
 - (d) the notice ceases to have effect on the issue of a completion certificate,
 - (e) the person on whom the notice is served may at any time apply for a completion certificate,
 - (f) the enforcement authority must make a decision as to whether to issue a completion certificate within 14 days of such an application, and
 - (g) the person on whom the notice is served may appeal against a decision not to issue a completion certificate.
- (3) To comply with this sub-paragraph a stop notice must include information as to—
- (a) the grounds for serving the notice,
 - (b) rights of appeal, and
 - (c) the consequences of non-compliance.

- (4) Rhaid i ddarpariaeth yn unol ag is-baragraff (2)(b) sicrhau bod y seiliau y caiff person apelio arnynt yn erbyn penderfyniad gan yr awdurdod gorfodi i gyflwyno hysbysiad stop yn cynnwys y canlynol—
- (a) bod y penderfyniad wedi ei wneud ar sail camgymeriad ffeithiol;
 - (b) bod y penderfyniad yn anghywir o ran y gyfraith;
 - (c) bod y penderfyniad yn afresymol;
 - (d) bod unrhyw gam a bennir yn yr hysbysiad yn afresymol;
 - (e) nad yw'r person wedi torri'r rheoliadau ac ni fyddai wedi eu torri pe na bai'r hysbysiad stop wedi ei gyflwyno;
 - (f) unrhyw seiliau eraill a bennir.
- (5) Rhaid i ddarpariaeth yn unol ag is-baragraff (2)(g) sicrhau bod y seiliau y caniateir i berson apelio arnynt yn erbyn penderfyniad gan yr awdurdod gorfodi i beidio â dyroddi tystysgrif gwblhau yn cynnwys y canlynol—
- (a) bod y penderfyniad wedi ei wneud ar sail camgymeriad ffeithiol;
 - (b) bod y penderfyniad yn anghywir o ran y gyfraith;
 - (c) bod y penderfyniad yn annheg neu'n afresymol.

Hysbysiadau stop: digolledu

- 9 (1) Rhaid i ddarpariaeth o dan baragraff 7 sy'n rhoi pŵer i awdurdod gorfodi i gyflwyno hysbysiad stop i berson gynnwys darpariaeth i'r awdurdod gorfodi ddiogolledu'r person am y golled a ddiroddedodd o ganlyniad i gyflwyno'r hysbysiad.
- (2) Caiff darpariaeth o dan is-baragraff (1) ddarparu am ddiogollediad—
- (a) mewn achosion rhagnodedig yn unig;
 - (b) mewn perthynas â disgrifiadau rhagnodedig o golled yn unig.
- (3) Rhaid i ddarpariaeth o dan is-baragraff (1) sicrhau bod y person y cyflwynir yr hysbysiad stop iddo yn gallu apelio yn erbyn—
- (a) penderfyniad gan y rheoleiddiwr i beidio â dyfarnu digollediad, neu
 - (b) penderfyniad gan y rheoleiddiwr ar swm y digollediad.

Hysbysiadau stop: gorfodi

- 10 (1) Rhaid i ddarpariaeth o dan baragraff 7 sy'n rhoi pŵer i awdurdod gorfodi i gyflwyno hysbysiad stop ddarparu, pan na fo person y cyflwynwyd hysbysiad iddo yn cydymffurfio ag ef, bod y person yn euog o dramgwydd ac yn agored—
- (a) ar gollfarn ddiannod, i ddirwy nad yw'n uwch na lefel 5 ar y raddfa safonol, neu garchar am gyfnod nad yw'n hwy na deuddeng mis, neu'r ddau, neu
 - (b) o'i gollfarnu ar ddiad, i garchar am gyfnod nad yw'n hwy na dwy flynedd, neu ddirwy, neu'r ddau.
- (2) Wrth gymhwysu'r adran hon mewn perthynas â thramgwydd a gyflawnwyd cyn cychwyn adran 154(1) o Ddeddf Cyfiawnder Troseddol 2003, mae'r cyfeiriad yn is-baragraff (1)(a) at ddeuddeng mis i'w ddarllen fel cyfeiriad at chwe mis.

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- (4) Provision pursuant to sub-paragraph (2)(b) must secure that the grounds on which a person may appeal against a decision of the enforcement authority to serve a stop notice include the following—
- (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unreasonable;
 - (d) that any step specified in the notice is unreasonable;
 - (e) that the person has not breached the regulations and would not have breached them had the stop notice not been served;
 - (f) such other grounds as may be prescribed.
- (5) Provision pursuant to sub-paragraph (2)(g) must secure that the grounds on which a person may appeal against a decision of the enforcement authority not to issue a completion certificate include the following—
- (a) that the decision was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unfair or unreasonable.

Stop notices: compensation

- 9 (1) Provision under paragraph 7 conferring power on an enforcement authority to serve a stop notice on a person must include provision for the enforcement authority to compensate the person for loss suffered as the result of the service of the notice.
- (2) Provision under sub-paragraph (1) may provide for compensation—
- (a) only in prescribed cases;
 - (b) only in relation to prescribed descriptions of loss.
- (3) Provision under sub-paragraph (1) must secure that the person on whom the stop notice is served is able to appeal against—
- (a) a decision by the regulator not to award compensation, or
 - (b) a decision of the regulator as to the amount of the compensation.

Stop notices: enforcement

- 10 (1) Provision under paragraph 7 conferring power on an enforcement authority to serve a stop notice must provide that, where a person on whom a notice is served does not comply with it, the person is guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding level 5 on the standard scale, or imprisonment for a term not exceeding twelve months, or both, or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.
- (2) In the application of this section in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003, the reference in sub-paragraph (1)(a) to twelve months is to be read as a reference to six months.

Ymgymeriadau gorfodi

11 (1) Caiff y rheoliadau wneud darpariaeth—

- (a) i alluogi awdurdod gorfodi i dderbyn ymgymeriad gorfodi oddi wrth berson mewn achos pan fo gan yr awdurdod gorfodi seiliau rhesymol dros amau bod y person wedi mynd yn groes i gyfyngiad neu ofyniad a osodwyd mewn rheoliadau diogelwch, a
 - (b) bod i dderbyn yr ymgymeriad y canlyniadau yn is-baragraff (4).
- (2) At ddibenion y Rhan hon, mae “ymgymeriad gorfodi” yn ymgymeriad i gymryd unrhyw gamau a bennir yn yr ymgymeriad yn cyfnod a bennir felly.
- (3) Rhaid i’r camau a bennir mewn ymgymeriad gorfodi fod—
- (a) yn gamau i sicrhau nad yw’r weithred o fynd yn groes i’r cyfyngiad neu’r gofyniad yn parhau nac yn digwydd eto, neu
 - (b) yn gamau o ddisgrifiad rhagnodedig.
- (4) Y canlyniadau yn yr is-baragraff hwn yw, oni bai bod y person y derbynnir yr ymgymeriad oddi wrtho wedi methu â chydymffurfio â’r ymgymeriad neu unrhyw ran ohono—
- (a) ni chaniateir i’r person hwnnw gael ei gollfarnu o dramgwydd o dan reoliadau diogelwch mewn cysylltiad â’r weithred neu’r anwaith y mae’r ymgymeriad yn ymwneud â hi neu ag ef,
 - (b) ni chaiff yr awdurdod gorfodi osod unrhyw gosb ariannol benodedig ar y person hwnnw y byddai ganddo fel arall y pŵer i’w gosod yn rhinwedd paragraff 2 mewn cysylltiad â’r weithred honno neu’r anwaith hwnnw, ac
 - (c) ni chaiff yr awdurdod gorfodi osod unrhyw ofyniad yn ôl disgrisiwn ar y person hwnnw y byddai ganddo fel arall y pŵer i’w osod yn rhinwedd paragraff 4 mewn cysylltiad â’r weithred honno neu’r anwaith hwnnw.
- (5) Caiff y rheoliadau (ymhlith pethau eraill) gynnwys darpariaeth—
- (a) am y weithdrefn i wneud ymgymeriad;
 - (b) am delerau ymgymeriad;
 - (c) am gyhoeddi ymgymeriad gan awdurdod gorfodi;
 - (d) am amrywio ymgymeriad;
 - (e) am amgylchiadau pryd y caniateir ystyried bod person wedi cydymffurfio ag ymgymeriad;
 - (f) am fonitro cydymffurfiaeth ag ymgymeriad gan awdurdod gorfodi;
 - (g) am ardystio gan awdurdod gorfodi y bu cydymffurfio ag ymgymeriad;
 - (h) am apelau yn erbyn gwrthod rhoi’r cyfryw ardystiad;
 - (i) mewn achos pan fo person wedi rhoi gwybodaeth anghywir, gamarweiniol neu anghyflawn mewn perthynas â’r ymgymeriad, am i’r person hwnnw gael ei ystyried yn un nad yw wedi cydymffurfio ag ef;
 - (j) mewn achos pan fo person wedi cydymffurfio yn rhannol ond ddim yn llawn ag ymgymeriad, i’r gydymffurfiaeth rannol gael ei chymryd i ystyriaeth wrth osod unrhyw gosb droseddol neu gosb arall ar y person;

Enforcement undertakings

- 11 (1) The regulations may make provision—
 - (a) to enable an enforcement authority to accept an enforcement undertaking from a person in a case where the enforcement authority has reasonable grounds to suspect that the person has contravened a restriction or requirement imposed in safety regulations, and
 - (b) for the acceptance of the undertaking to have the consequences in sub-paragraph (4).
- (2) For the purposes of this Part, an “enforcement undertaking” is an undertaking to take such action as may be specified in the undertaking within such period as may be so specified.
- (3) The action specified in an enforcement undertaking must be—
 - (a) action to secure that contravention of the restriction or requirement does not continue or recur, or
 - (b) action of a prescribed description.
- (4) The consequences in this sub-paragraph are that, unless the person from whom the undertaking is accepted has failed to comply with the undertaking or any part of it—
 - (a) that person may not at any time be convicted of an offence under safety regulations in respect of the act or omission to which the undertaking relates,
 - (b) the enforcement authority may not impose on that person any fixed monetary penalty which it would otherwise have power to impose by virtue of paragraph 2 in respect of that act or omission, and
 - (c) the enforcement authority may not impose on that person any discretionary requirement which it would otherwise have power to impose by virtue of paragraph 4 in respect of that act or omission.
- (5) The regulations may (among other things) include provision—
 - (a) as to the procedure for entering into an undertaking;
 - (b) as to the terms of an undertaking;
 - (c) as to publication of an undertaking by an enforcement authority;
 - (d) as to variation of an undertaking;
 - (e) as to circumstances in which a person may be regarded as having complied with an undertaking;
 - (f) as to monitoring by an enforcement authority of compliance with an undertaking;
 - (g) as to certification by an enforcement authority that an undertaking has been complied with;
 - (h) for appeals against refusal to give such certification;
 - (i) in a case where a person has given inaccurate, misleading or incomplete information in relation to the undertaking, for that person to be regarded as not having complied with it;
 - (j) in a case where a person has complied partly but not fully with an undertaking, for that part-compliance to be taken into account in the imposition of any criminal or other sanction on the person;

- (k) at ddibenion galluogi cychwyn achos troseddol yn erbyn person mewn cysylltiad â mynd yn groes i'r gofyniad neu'r cyfyngiad os digwydd i ymgymeriad gael ei dorri neu i ran ohono gael ei thorri;
- (l) i estyn unrhyw gyfnod pryd y caniateir cychwyn yr achos hwnnw ynddo.

Cyfuno cosbau

- 12 Ni chaniateir gwneud darpariaeth o dan y paragraffau a bennir mewn cofnod yng ngholofn 1 o'r tabl a ganlyn mewn perthynas â'r un math o doriad o reolau diogelwch oni bai bod yr amodau cyntaf a'r ail amodau a roddir yn y cofnodion cyfatebol yng ngholofnau 2 a 3 yn cael eu bodloni.

TABL

Colofn 1 Paragraffau o'r Atodlen hon	Colofn 2 Yr Amod Cyntaf	Colofn 3 Yr Ail Amod
Paragraffau 2 a 4	Rhaid i'r ddarpariaeth sicrhau na chaiff yr awdurdod gorfodi gyflwyno hysbysiad o fwriad y cyfeirir ato ym mharagraff 3(1)(a) i berson mewn perthynas â thoriad pan fo gofyniad yn ôl disgrisiwn wedi ei osod ar y person hwnnw mewn perthynas â'r un toriad.	Rhaid i'r ddarpariaeth sicrhau na chaiff yr awdurdod gorfodi gyflwyno hysbysiad o fwriad y cyfeirir ato ym mharagraff 5(1)(a) i berson mewn perthynas â thoriad pan fo— (a) cosb ariannol benodedig wedi ei gosod ar y person hwnnw mewn perthynas â'r un toriad, neu (b) y person wedi ei ryddhau ei hun o'i atebolrwydd i dalu cosb ariannol benodedig mewn perthynas â'r toriad yn unol â pharagraff 3 (1)(b).

- (k) for the purpose of enabling criminal proceedings to be instituted against a person in respect of the contravention of the requirement or restriction in the event of breach of an undertaking or any part of it;
- (l) to extend any period within which those proceedings may be instituted.

Combination of sanctions

12 Provision may not be made under the paragraphs specified in an entry in column 1 of the following table in relation to the same kind of breach of safety regulations unless the first and second conditions set out in the corresponding entries in columns 2 and 3 are met.

TABLE

Column 1 Paragraphs of this Schedule	Column 2 First Condition	Column 3 Second Condition
Paragraphs 2 and 4	The provision must secure that the enforcement authority may not serve a notice of intent referred to in paragraph 3(1)(a) on a person in relation to a breach where a discretionary requirement has been imposed on that person in relation to the same breach.	The provision must secure that the enforcement authority may not serve a notice of intent referred to in paragraph 5(1)(a) on a person in relation to a breach where— (a) a fixed monetary penalty has been imposed on that person in relation to the same breach, or (b) the person has discharged liability to a fixed monetary penalty in relation to that breach pursuant to paragraph 3(1)(b).

Paragraffau 2 a 7	Rhaid i'r ddarpariaeth sicrhau na chaiff yr awdurdod gorfodi gyflwyno hysbysiad o fwriad y cyfeiriwyd ato ym mharagraff 3(1)(a) i berson mewn perthynas â thoriad pan fo hysbysiad stop wedi ei gyflwyno mewn perthynas â'r un toriad.	Rhaid i'r ddarpariaeth sicrhau na chaiff yr awdurdod gorfodi gyflwyno hysbysiad stop i berson mewn perthynas â thoriad pan fo— (a) cosb ariannol benodedig wedi ei gosod ar y person hwnnw mewn perthynas â'r un toriad, neu (b) y person wedi ei ryddhau ei hun o'i atebolrwydd i dalu cosb ariannol benodedig mewn perthynas â'r toriad yn unol â pharagraff 3 (1)(b).
Paragraffau 4 a 7	Rhaid i'r ddarpariaeth sicrhau na chaiff yr awdurdod gorfodi gyflwyno hysbysiad o fwriad y cyfeirir ato ym mharagraff 5(1)(a) i berson mewn perthynas â thoriad pan fo hysbysiad stop wedi ei gyflwyno mewn perthynas â'r un toriad.	Rhaid i'r ddarpariaeth sicrhau na chaiff yr awdurdod gorfodi gyflwyno hysbysiad stop i berson mewn perthynas â thoriad pan fo gofyniad yn ôl disgresiwn wedi ei osod ar y person hwnnw mewn perthynas â'r un toriad.

Cosbau ariannol

- 13 (1) Os yw'r rheoliadau yn rhoi pŵer i awdurdod gorfodi i'w gwneud yn ofynnol i berson dalu cosb ariannol benodedig, cosb ariannol amrywiadwy neu gosb am beidio â chydymffurfio o dan baragraff 6(1), cânt gynnwys darpariaeth—
- (a) am ddisgowntiau talu'n gynnar;
 - (b) am dalu llog neu gosbau ariannol eraill am dalu'r gosb yn hwyr, a chyfanswm y llog hwnnw neu'r cosbau ariannol eraill hynny heb fod yn fwy na swm y gosb honno;
 - (c) am orfodi'r gosb.
- (2) Caiff darpariaeth o dan is-baragraff (1)(c) gynnwys—
- (a) darpariaeth i'r awdurdod gorfodi adennill y gosb, ac unrhyw log neu gosb ariannol arall am dalu'n hwyr, fel dyled sifil;
 - (b) darpariaeth i'r gosb, ac unrhyw log neu gosb ariannol arall am dalu'n hwyr fod yn adenilladwy, ar orchymyn llys, fel petai'n daladwy o dan orchymyn llys.

Paragraphs 2 and 7	The provision must secure that the enforcement authority may not serve a notice of intent referred to in paragraph 3(1)(a) on a person in relation to a breach where a stop notice has been served in relation to the same breach.	The provision must secure that the enforcement authority may not serve a stop notice on a person in relation to a breach where – (a) a fixed monetary penalty has been imposed on that person in relation to the same breach, or (b) the person has discharged liability to a fixed monetary penalty in relation to that breach pursuant to paragraph 3(1)(b).
Paragraphs 4 and 7	The provision must secure that the enforcement authority may not serve a notice of intent referred to in paragraph 5(1)(a) on a person in relation to a breach where a stop notice has been served in relation to the same breach.	The provision must secure that the enforcement authority may not serve a stop notice on a person in relation to a breach where a discretionary requirement has been imposed on that person in relation to the same breach.

Monetary penalties

- 13 (1) If the regulations confer power on an enforcement authority to require a person to pay a fixed monetary penalty, a variable monetary penalty or a non-compliance penalty under paragraph 6(1), they may include provision –
- (a) for early payment discounts;
 - (b) for the payment of interest or other financial penalties for late payment of the penalty, such interest or other financial penalties not in total to exceed the amount of that penalty;
 - (c) for enforcement of the penalty.
- (2) Provision under sub-paragraph (1)(c) may include –
- (a) provision for the enforcement authority to recover the penalty, and any interest or other financial penalty for late payment, as a civil debt;
 - (b) provision for the penalty, and any interest or other financial penalty for late payment to be recoverable, on the order of a court, as if payable under a court order.

Adennill costau

- 14 (1) Caiff darpariaeth o dan baragraff 4 gynnwys darpariaeth i awdurdod gorfodi ei gwneud yn ofynnol, drwy hysbysiad, i berson y gosodir gofyniad yn ôl disgresiwn arno dalu'r costau yr aeth yr awdurdod gorfodi iddynt mewn perthynas â gosod y gofyniad yn ôl disgresiwn hyd at yr amser y gosodwyd ef.
- (2) Yn is-baragraff (1), mae'r cyfeiriad at gostau yn cynnwys yn (ymhlith pethau eraill) –
- (a) costau ymchwilio;
 - (b) costau gweinyddu;
 - (c) costau cael cyngor arbenigol (gan gynnwys cyngor cyfreithiol).
- (3) Rhaid i ddarpariaeth o dan y paragraff hwn sicrhau, mewn unrhyw achos pryd y cyflwynir hysbysiad sy'n gwneud talu costau yn ofynnol –
- (a) bod yr hysbysiad yn pennu'r swm sydd i'w dalu;
 - (b) y gellir ei gwneud yn ofynnol i'r awdurdod gorfodi ddarparu dadansoddiad manwl o'r swm hwnnw;
 - (c) nad yw'r person y mae'n ofynnol iddo dalu costau yn atebol am dalu unrhyw gostau a ddangosir gan y person fel rhai yr aethpwyd iddynt yn ddiangen;
 - (d) bod y person y mae'n ofynnol iddo dalu costau yn cael apelio yn erbyn –
 - (i) penderfyniad yr awdurdod gorfodi i osod y gofyniad i dalu costau;
 - (ii) penderfyniad yr awdurdod gorfodi am swm y costau hynny.
- (4) Caiff darpariaeth o dan y paragraff hwn gynnwys y ddarpariaeth y cyfeirir ati ym mharagraff 13(1)(b) ac (c) a (2).
- (5) Rhaid i ddarpariaeth o dan y paragraff hwn sicrhau ei bod yn ofynnol i'r awdurdod gorfodi gyhoeddi canllawiau am sut y bydd yr awdurdod gorfodi yn arfer y pŵer a roddir gan y ddarpariaeth.

Apelau

- 15 (1) Ni chaiff rheoliadau ddarparu am apelio ac eithrio i –
- (a) y Tribiwnlys Haen Gyntaf, neu
 - (b) tribiwnlys arall a grëwyd o dan ddeddfiad (o fewn ystyr adran 14H(5)).
- (2) Yn is-baragraff (1)(b) nid yw "tribiwnlys" yn cynnwys llys barn arferol.
- (3) Os yw'r rheoliadau yn darparu am apel mewn perthynas â gosod unrhyw ofyniad neu gyflwyniad unrhyw hysbysiad, cânt gynnwys –
- (a) darpariaeth sy'n atal y gofyniad neu'r hysbysiad dros dro wrth aros i'r apel ddod i ben;
 - (b) darpariaeth am bwerau'r tribiwnlys yr apelir iddo;
 - (c) darpariaeth am sut y mae adennill unrhyw swm sy'n daladwy yn unol â phenderfyniad gan y tribiwnlys hwnnw.

Costs recovery

- 14 (1) Provision under paragraph 4 may include provision for an enforcement authority, by notice, to require a person on whom a discretionary requirement is imposed to pay the costs incurred by the enforcement authority in relation to the imposition of the discretionary requirement up to the time of its imposition.
- (2) In sub-paragraph (1), the reference to costs includes (among other things) –
- (a) investigation costs;
 - (b) administration costs;
 - (c) costs of obtaining expert advice (including legal advice).
- (3) Provision under this paragraph must secure that, in any case where a notice requiring payment of costs is served –
- (a) the notice specifies the amount required to be paid;
 - (b) the enforcement authority may be required to provide a detailed breakdown of that amount;
 - (c) the person required to pay costs is not liable to pay any costs shown by the person to have been unnecessarily incurred;
 - (d) the person required to pay costs may appeal against –
 - (i) the decision of the enforcement authority to impose the requirement to pay costs;
 - (ii) the decision of the enforcement authority as to the amount of those costs.
- (4) Provision under this paragraph may include the provision referred to in paragraph 13(1)(b) and (c) and (2).
- (5) Provision under this paragraph must secure that the enforcement authority is required to publish guidance about how the enforcement authority will exercise the power conferred by the provision.

Appeals

- 15 (1) The regulations may not provide for the making of an appeal other than to –
- (a) the First-tier Tribunal, or
 - (b) another tribunal created under an enactment (within the meaning of section 14H(5)).
- (2) In sub-paragraph (1)(b) “tribunal” does not include an ordinary court of law.
- (3) If the regulations make provision for an appeal in relation to the imposition of any requirement or service of any notice, they may include –
- (a) provision suspending the requirement or notice pending determination of the appeal;
 - (b) provision as to the powers of the tribunal to which the appeal is made;
 - (c) provision as to how any sum payable in pursuance of a decision of that tribunal is to be recoverable.

- (4) Mae'r ddarpariaeth y cyfeirir ati yn is-baragraff (3)(b) yn cynnwys darpariaeth sy'n rhoi i'r tribiwnlys yr apelir iddo bŵer –
- (a) i dynnu'r gofyniad neu'r hysbysiad yn ôl;
 - (b) i gadarnhau'r gofyniad neu'r hysbysiad;
 - (c) i gymryd y camau y gallai'r awdurdod gorfodi eu cymryd mewn perthynas â'r weithred neu'r anwaith sy'n arwain at y gofyniad neu'r hysbysiad;
 - (d) i anfon y penderfyniad ynghylch p'un ai i gadarnhau'r gofyniad neu'r hysbysiad ai peidio, neu unrhyw fater sy'n ymwneud â'r penderfyniad hwnnw, yn ôl i'r awdurdod gorfodi;
 - (e) i ddyfarnu costau.

Cyhoeddusrwydd am osod cosbau sifil

- 16 (1) Caiff y rheoliadau wneud darpariaeth sy'n galluogi awdurdod gorfodi i roi hysbysiad cyhoeddusrwydd i berson y gosodwyd cosb sifil arno yn unol â rheoliadau o dan yr Atodlen hon.
- (2) Mae "hysbysiad cyhoeddusrwydd" yn hysbysiad sy'n ei gwneud yn ofynnol i'r person roi cyhoeddusrwydd –
- (a) i'r ffaith bod y gosb sifil wedi ei gosod, a
 - (b) i unrhyw wybodaeth arall a bennir yn y rheoliadau, mewn unrhyw ffordd a bennir yn yr hysbysiad.
- (3) Caiff y rheoliadau ddarparu i hysbysiad cyhoeddusrwydd –
- (a) pennu amser i gydymffurfio â'r hysbysiad, a
 - (b) ei gwneud yn ofynnol i'r person y rhoddir ef iddo roi tystiolaeth i'r awdurdod gorfodi ei fod wedi cydymffurfio erbyn yr amser a bennir yn yr hysbysiad.
- (4) Caiff y rheoliadau ddarparu, os bydd person yn methu â chydymffurfio â hysbysiad cydymffurfio, bod awdurdod gorfodi yn cael –
- (a) rhoi cyhoeddusrwydd i'r wybodaeth y mae'n ofynnol rhoi cyhoeddusrwydd iddi gan yr hysbysiad, a
 - (b) adennill costau gwneud hynny oddi wrth y person hwnnw.

Personau sy'n agored i gosbau sifil

- 17 Caiff y rheoliadau wneud darpariaeth am y personau sy'n agored i gosbau sifil o dan yr Atodlen hon a chânt (ymhlith pethau eraill) ddarparu –
- (a) i swyddogion corff corfforaethol fod yn atebol yn ogystal â'r corff corfforaethol ei hun, a
 - (b) i bartneriaid partneriaeth fod yn atebol yn ogystal â'r bartneriaeth ei hun, yn yr amgylchiadau a bennir.

Canllawiau ynghylch defnyddio cosbau sifil

- 18 (1) Pan fo pŵer yn cael ei roi i awdurdod gorfodi gan y rheoliadau i osod cosb sifil mewn perthynas â thoriad o reoliadau o dan yr Atodlen hon, rhaid i'r ddarpariaeth sy'n rhoi'r pŵer sicrhau bod –

- (4) The provision referred to in sub-paragraph (3)(b) includes provision conferring on the tribunal to which the appeal is made power –
 - (a) to withdraw the requirement or notice;
 - (b) to confirm the requirement or notice;
 - (c) to take such steps as the enforcement authority could take in relation to the act or omission giving rise to the requirement or notice;
 - (d) to remit the decision whether to confirm the requirement or notice, or any matter relating to that decision, to the enforcement authority;
 - (e) to award costs.

Publicity for imposition of civil sanctions

- 16 (1) The regulations may make provision enabling an enforcement authority to give a publicity notice to a person on whom a civil sanction has been imposed in accordance with regulations under this Schedule.
- (2) A “publicity notice” is a notice requiring the person to publicise –
 - (a) the fact that the civil sanction has been imposed, and
 - (b) such other information as may be specified in the regulations,in such manner as may be specified in the notice.
- (3) The regulations may provide for a publicity notice to –
 - (a) specify the time for compliance with the notice, and
 - (b) require the person to whom it is given to supply an enforcement authority with evidence of compliance within such time as may be specified in the notice.
- (4) The regulations may provide that, if a person fails to comply with a publicity notice, an enforcement authority may –
 - (a) publicise the information required to be publicised by the notice, and
 - (b) recover the costs of doing so from that person.

Persons liable to civil sanctions

- 17 The regulations may make provision about the persons liable to civil sanctions under regulations under this Schedule and may (among other things) provide for –
 - (a) the officers of a body corporate to be so liable as well the body corporate itself, and
 - (b) for the partners of a partnership to be liable as well as the partnership itself,in such circumstances as may be specified.

Guidance as to use of civil sanctions

- 18 (1) Where power is conferred on an enforcement authority by the regulations to impose a civil sanction in relation to a breach of regulations under this Schedule, the provision conferring the power must secure that –

- (a) rhaid i'r awdurdod gorfodi gyhoeddi canllawiau am ddefnydd yr awdurdod gorfodi o'r gosb sifil,
 - (b) rhaid i'r canllawiau gynnwys yr wybodaeth berthnasol,
 - (c) rhaid i'r awdurdod gorfodi adolygu'r canllawiau pan fo hynny'n briodol,
 - (d) rhaid i'r awdurdod gorfodi ymgynghori â'r bobl a bennir yn y ddarpariaeth cyn cyhoeddi unrhyw ganllawiau neu ganllawiau wedi eu hadolygu, ac
 - (e) rhaid i'r awdurdod gorfodi roi sylw i'r canllawiau neu i'r canllawiau wedi eu hadolygu wrth arfer swyddogaethau'r awdurdod gorfodi.
- (2) Yn achos canllawiau sy'n ymwneud â chosb ariannol benodedig, yr wybodaeth berthnasol y cyfeirir ati yn is-baragraff (1)(b) yw gwybodaeth am—
- (a) yr amgylchiadau pryd y mae'r gosb yn debygol o gael ei gosod,
 - (b) yr amgylchiadau pryd na chaniateir gosod y gosb,
 - (c) swm y gosb,
 - (d) sut y caniateir i berson ei ryddhau ei hun o'r gosb ac effaith y rhyddhad hwnnw, ac
 - (e) hawliau i gyflwyno sylwadau a gwrthwynebiadau a hawliau apelio.
- (3) Yn achos canllawiau sy'n ymwneud â gofyniad yn ôl disgresiwn, yr wybodaeth berthnasol y cyfeirir ati yn is-baragraff (1)(b) yw gwybodaeth am—
- (a) yr amgylchiadau pryd y mae'r gofyniad yn debygol o gael ei osod,
 - (b) yr amgylchiadau pryd na chaniateir gosod y gofyniad,
 - (c) yn achos cosb ariannol amrywiadwy, y materion y mae'n debygol y cânt eu cymryd i ystyriaeth gan yr awdurdod gorfodi wrth benderfynu swm y gosb (gan gynnwys, pan fo hynny'n berthnasol, unrhyw ddisgownt am adrodd yn wirfoddol am fethu â chydymffurfio), a
 - (d) hawliau i gyflwyno sylwadau a gwrthwynebiadau a hawliau apelio.

Cyhoeddi camau gorfodi

- 19 (1) Pan fo pŵer yn cael ei roi i awdurdod gorfodi gan y rheoliadau i osod cosb sifil mewn perthynas â thorri rheoliadau diogelwch, rhaid i'r ddarpariaeth sy'n rhoi'r pŵer, yn ddarostyngedig i'r paragraff hwn, sicrhau bod rhaid i'r awdurdod gorfodi gyhoeddi adroddiadau o bryd i'w gilydd sy'n pennu—
- (a) yr achosion pryd y gosodwyd y gosb sifil, a
 - (b) pan fo'r gosb yn gosb ariannol benodedig, yr achosion pryd y rhyddhawyd yr atebolrwydd i dalu'r gosb yn unol â pharagraff 3(1)(b).
- (2) Yn is-baragraff (1)(a), nid yw'r cyfeiriad at achosion pryd y gosodwyd y gosb sifil yn cynnwys achosion pan fo'r gosb sifil wedi ei gosod ond wedi ei gwrthdroi ar apêl.
- (3) Nid oes angen i'r ddarpariaeth sy'n rhoi'r pŵer sicrhau'r canlyniad yn is-baragraff (1) mewn achosion pan fo'r awdurdod perthnasol yn ystyried y byddai'n anaddas i wneud hynny.

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- (a) the enforcement authority must publish guidance about the enforcement authority's use of the civil sanction,
 - (b) the guidance must contain the relevant information,
 - (c) the enforcement authority must revise the guidance where appropriate,
 - (d) the enforcement authority must consult such persons as the provision may specify before publishing any guidance or revised guidance, and
 - (e) the enforcement authority must have regard to the guidance or revised guidance in exercising the enforcement authority's functions.
- (2) In the case of guidance relating to a fixed monetary penalty, the relevant information referred to in sub-paragraph (1)(b) is information as to—
- (a) the circumstances in which the penalty is likely to be imposed,
 - (b) the circumstances in which it may not be imposed,
 - (c) the amount of the penalty,
 - (d) how liability for the penalty may be discharged and the effect of discharge, and
 - (e) rights to make representations and objections and rights of appeal.
- (3) In the case of guidance relating to a discretionary requirement, the relevant information referred to in sub-paragraph (1)(b) is information as to—
- (a) the circumstances in which the requirement is likely to be imposed,
 - (b) the circumstances in which it may not be imposed,
 - (c) in the case of a variable monetary penalty, the matters likely to be taken into account by the enforcement authority in determining the amount of the penalty (including, where relevant, any discounts for voluntary reporting of non-compliance), and
 - (d) rights to make representations and objections and rights of appeal.

Publication of enforcement action

- 19 (1) Where power is conferred on an enforcement authority by the regulations to impose a civil sanction in relation to a breach of safety regulations, the provision conferring the power must, subject to this paragraph, secure that the enforcement authority must from time to time publish reports specifying—
- (a) the cases in which the civil sanction has been imposed, and
 - (b) where the civil sanction is a fixed monetary penalty, the cases in which liability to the penalty has been discharged pursuant to paragraph 3(1)(b).
- (2) In sub-paragraph (1)(a), the reference to cases in which the civil sanction has been imposed do not include cases where the sanction has been imposed but overturned on appeal.
- (3) The provision conferring the power need not secure the result in sub-paragraph (1) in cases where the relevant authority considers that it would be inappropriate to do so.

Cydymffurfio ag egwyddorion rheoleiddiol

- 20 Rhaid i awdurdod gorfodi weithredu yn unol â'r egwyddorion a ganlyn—
- (a) dylai gweithgareddau rheoleiddiol gael eu cyflawni mewn ffordd sy'n dryloyw, atebol, cymesur a chyson;
 - (b) dim ond at achosion pryd y mae angen camau gweithredu y dylid targedu gweithgareddau rheoleiddiol.

Adolygu

- 21 (1) Rhaid i Weinidogion Cymru yn unol â'r paragraff hwn adolygu gweithrediad unrhyw ddarpariaeth a wnaed ganddynt i roi pŵer i awdurdod gorfodi (gan eu cynnwys hwy eu hunain) osod cosb sifil mewn perthynas â thorri rheoliadau diogelwch.
- (2) Rhaid i'r adolygiad ddigwydd cyn gynted ag y bo'n ymarferol ar ôl diwedd y cyfnod o dair blynedd sy'n dechrau ar y diwrnod pryd y daw'r ddarpariaeth i rym.
 - (3) Rhaid i'r adolygiad ystyried yn benodol a yw'r ddarpariaeth wedi rhoi ei hamcanion ar waith yn effeithlon ac yn effeithiol.
 - (4) Wth gynnal adolygiad o dan y paragraff hwn, rhaid i Weinidogion Cymru ymgynghori â'r personau y mae'n briodol yn eu barn hwy i ymgynghori â hwy.
 - (5) Rhaid i Weinidogion Cymru gyhoeddi canlyniadau adolygiad o dan y paragraff hwn.
 - (6) Rhaid i Weinidogion Cymru osod copi o adolygiad o dan y paragraff hwn gerbron Cynulliad Cenedlaethol Cymru.

Atal dros dro

- 22 (1) Pan fo Gweinidogion Cymru wedi gwneud darpariaeth sy'n rhoi pŵer i awdurdod gorfodi heblaw hwy eu hunain i osod cosb sifil mewn perthynas â thorri rheoliadau diogelwch, caiff Gweinidogion Cymru gyfarwyddo'r awdurdod gorfodi—
- (a) pan fo'r pŵer yn bŵer i osod cosb ariannol benodedig, i beidio â chyflwyno unrhyw hysbysiad pellach o fwriad y cyfeirir ato ym mharagraff 3(1)(a) mewn perthynas â thoriad o'r math hwnnw;
 - (b) pan fo'r pŵer yn bŵer i osod gofyniad yn ôl disgresiwn, i beidio â chyflwyno unrhyw hysbysiad pellach o fwriad y cyfeirir ato ym mharagraff 5(1)(a) mewn perthynas â thoriad o'r math hwnnw;
 - (c) pan fo'r pŵer yn bŵer i osod hysbysiad stop, i beidio â chyflwyno unrhyw hysbysiaidau stop pellach mewn perthynas â thoriad o'r math hwnnw;
 - (d) pan fo'r pŵer yn bŵer i dderbyn ymgymeriad gorfodi, i beidio â derbyn unrhyw ymgymeriad pellach mewn perthynas â thoriad o'r math hwnnw.
- (2) Ni chaiff Gweinidogion Cymru ond roi cyfarwyddyd o dan is-baragraff (1) mewn perthynas â thorri rheoliadau diogelwch os ydynt wedi eu bodloni bod yr awdurdod gorfodi wedi methu ar fwy nag un achlysur—
- (a) â chydymffurfio ag unrhyw ddyletswydd a osodir arno o dan yr Atodlen hon neu yn ei rhinwedd mewn perthynas â thoriad o'r math hwnnw,
 - (b) â gweithredu yn unol â'r canllawiau a gyhoeddodd o dan baragraff 18 mewn perthynas â thoriad o'r math hwnnw, neu
 - (c) â gweithredu yn unol â'r egwyddorion y cyfeirir atynt ym mharagraff 20 neu egwyddorion eraill o arferion gorau mewn perthynas â gorfodi'r gyfraith o ran toriad o'r math hwnnw.

Compliance with regulatory principles

- 20 An enforcement authority must act in accordance with the principles that—
- (a) regulatory activities should be carried out in a way that is transparent, accountable, proportionate and consistent;
 - (b) regulatory activities should be targeted only at cases in which action is needed.

Review

- 21 (1) The Welsh Ministers must in accordance with this paragraph review the operation of any provision made by them conferring power on an enforcement authority (including themselves) to impose a civil sanction in relation to a breach of safety regulations.
- (2) The review must take place as soon as practicable after the end of the period of three years beginning with the day on which the provision comes into force.
 - (3) The review must in particular consider whether the provision has implemented its objectives efficiently and effectively.
 - (4) In conducting a review under this paragraph the Welsh Ministers must consult such persons as they consider appropriate.
 - (5) The Welsh Ministers must publish the results of a review under this section.
 - (6) The Welsh Ministers must lay a copy of a review under this paragraph before the National Assembly for Wales.

Suspension

- 22 (1) Where provision has been made by the Welsh Ministers conferring power on an enforcement authority other than themselves to impose a civil sanction in relation to a breach of safety regulations, the Welsh Ministers may direct the enforcement authority—
- (a) where the power is power to impose a fixed monetary penalty, not to serve any further notice of intent referred to in paragraph 3(1)(a) in relation to a breach of that kind;
 - (b) where the power is power to impose a discretionary requirement, not to serve any further notice of intent referred to in paragraph 5(1)(a) in relation to a breach of that kind;
 - (c) where the power is power to impose a stop notice, not to serve any further stop notices in relation to a breach of that kind;
 - (d) where the power is power to accept an enforcement undertaking, not to accept any further undertaking in relation to a breach of that kind.
- (2) The Welsh Ministers may only give a direction under sub-paragraph (1) in relation to a breach of safety regulations if they are satisfied that the enforcement authority has failed on more than one occasion—
- (a) to comply with any duty imposed on it under or by virtue of this Schedule in relation to a breach of that kind,
 - (b) to act in accordance with the guidance it has published under paragraph 18 in relation to a breach of that kind, or
 - (c) to act in accordance with the principles referred to in paragraph 20 or with other principles of best practice in relation to the enforcement of a breach of that kind.

- (3) Caiff Gweinidogion Cymru drwy gyfarwyddyd ddirymu cyfarwyddyd a roddir ganddynt o dan is-baragraff (1) os ydynt wedi eu bodloni bod yr awdurdod gorfodi wedi cymryd y camau priodol i unioni'r methiant yr oedd y cyfarwyddyd yn ymwneud ag ef.
- (4) Cyn rhoi cyfarwyddyd o dan is-baragraff (1) neu (3) rhaid i Weinidogion Cymru ymgynghori—
 - (a) â'r awdurdod gorfodi, a
 - (b) ag unrhyw bersonau eraill y mae'n briodol ymgynghori â hwy yn eu barn hwy.
- (5) Pan fo Gweinidogion Cymru yn rhoi cyfarwyddyd o dan yr adran hon, rhaid iddynt osod copi gerbron Cynulliad Cenedlaethol Cymru.
- (6) Pan fo Gweinidogion Cymru yn rhoi cyfarwyddyd o dan yr adran hon, rhaid i'r awdurdod gorfodi—
 - (a) cyhoeddi'r cyfarwyddyd mewn ffordd sy'n briodol yn marn Gweinidogion Cymru, a
 - (b) cymryd unrhyw gamau eraill sy'n briodol ym marn yr awdurdod gorfodi neu y gall Gweinidogion Cymru eu gwneud yn ofynnol er mwyn dwyn y cyfarwyddyd at sylw personau eraill y mae'n debygol y bydd yn effeithio arnynt.

Talu cosbau i Gronfa Gyfunol Cymru

- 23 Pan fo awdurdod gorfodi heblaw Gweinidogion Cymru, yn unol ag unrhyw ddarpariaeth a wneir o dan yr Atodlen hon, yn cael—
- (a) cosb ariannol benodedig, cosb ariannol amrywiadwy neu gosb am beidio â chydymffurfio,
 - (b) unrhyw log neu gosb ariannol arall am dalu'r cyfryw gosb yn hwyr, neu
 - (c) swm a delir er mwyn i berson ei ryddhau ei hun o'r atebolrwydd i dalu cosb ariannol benodedig,
- rhaid i'r awdurdod gorfodi ei dalu i Gronfa Gyfunol Cymru.”.

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- (3) The Welsh Ministers may by direction revoke a direction given by them under sub-paragraph (1) if they are satisfied that the enforcement authority has taken the appropriate steps to remedy the failure to which that direction related.
 - (4) Before giving a direction under sub-paragraph (1) or (3) the Welsh Ministers must consult—
 - (a) the enforcement authority, and
 - (b) such other persons as they consider appropriate.
 - (5) Where the Welsh Ministers give a direction under this section, they must lay a copy before the National Assembly for Wales.
 - (6) Where the Welsh Ministers give a direction under this section, the enforcement authority must—
 - (a) publish the direction in such manner as the Welsh Ministers think fit, and
 - (b) take such other steps as the enforcement authority thinks fit or the Welsh Ministers may require to bring the direction to the attention of other persons likely to be affected by it.

Payment of penalties into Welsh Consolidated Fund

- 23 Where pursuant to any provision made under this Schedule an enforcement authority other than the Welsh Ministers receives—
- (a) a fixed monetary penalty, a variable monetary penalty or a non-compliance penalty,
 - (b) any interest or other financial penalty for late payment of such a penalty, or
 - (c) a sum paid in discharge of liability to a fixed monetary penalty,
- the enforcement authority must pay it into the Welsh Consolidated Fund.”.