



OFFERYNNAU STATUDOL
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WELSH STATUTORY
INSTRUMENTS

2011 Rhif 2829 (Cy.302)

2011 No. 2829 (W.302)

**DIOGELU'R ARFORDIR,
CYMRU**

**COAST PROTECTION,
WALES**

**DIOGELU'R AMGYLCHEDD,
CYMRU**

**ENVIRONMENTAL
PROTECTION, WALES**

**RHEOLI PERYGL
LLIFOGYDD, CYMRU**

**FLOOD RISK MANAGEMENT,
WALES**

Gorchymyn Llifogydd ac Erydu
Arfordirol Atodol (Cymru) 2011

The Incidental Flooding and
Coastal Erosion (Wales) Order
2011

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Order)

Mae'r Gorchymyn hwn yn ymwneud â phwerau Asiantaeth yr Amgylchedd ac awdurdodau lleol mewn perthynas â gwaith llifogydd ac erydu arfordirol atodol o dan adrannau 38 a 39, yn eu tro, o Ddeddf Rheoli Llifogydd a Dŵr 2010 (p.29). Mae'r adrannau hynny yn galluogi Asiantaeth yr Amgylchedd ac awdurdodau lleol i wneud gwaith penodol er budd gwarchod natur, cadwraeth treftadaeth ddiwylliannol neu fwynhad pobl o'r amgylchedd neu dreftadaeth ddiwylliannol.

This Order relates to the incidental flooding and coastal erosion works powers of the Environment Agency and local authorities under sections 38 and 39 respectively of the Flood and Water Management Act 2010 (c.29). Those sections empower the Environment Agency and local authorities to carry out certain works in the interests of nature conservation, the preservation of cultural heritage or people's enjoyment of the environment or of cultural heritage.

Mae'r Gorchymyn hwn yn cymhwysu'r darpariaethau perthnasol o Ddeddf Adnoddau Dŵr 1991 (p.57) sy'n ymwneud â phrynu gorfodol, pwerau mynediad a iawndal i arfer y pwerau o dan adrannau 38 a 39.

This Order applies the relevant provisions of the Water Resources Act 1991 (c.57) relating to compulsory purchase, powers of entry, and compensation to the exercise of the powers under sections 38 and 39.

Mae hefyd yn addasu cymhwysiad y darpariaethau hynny at ddibenion adran 38 fel—

It also modifies the application of those provisions for the purposes of section 38 so that—

- (a) na all Asiantaeth yr Amgylchedd arfer y pwerau prynu gorfodol ond at y diben o alluogi'r Deyrnas Unedig i gydymffurfio â'i rhwymedigaethau o dan Gyfarwydddebau UE penodol a enwyd;
- (b) bod rhaid i Asiantaeth yr Amgylchedd a'r awdurdodau lleol roi 7 niwrnod o rybudd cyn

- (a) the Environment Agency may not exercise the powers of compulsory purchase except for the purpose of enabling the United Kingdom to comply with its obligations under certain named EU Directives;
- (b) the Environment Agency and local authorities must give 7 days' notice before exercising the

arfer eu pwerau mynediad mewn perthynas â thir amaethyddol (ac eithrio mewn argyfwng).

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar wneud Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Gorchymyn hwn. O ganlyniad, paratowyd asesiad effaith rheoleiddiol o'r costau a'r buddiannau sy'n debygol o ddeillio o gydymffurfio â'r Gorchymyn hwn. Mae copi ar gael gan: Is-adran Mannau Cynaliadwy, Adran yr Amgylchedd a Datblygu Cynaliadwy, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ

powers of entry in relation to agricultural land (except in an emergency).

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from the Sustainable Places Division, Department for Environment and Sustainable Development, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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2011

The Incidental Flooding and
Coastal Erosion (Wales) Order
2011

Gwnaed 22 Tachwedd 2011
Yn dod i rym 1 Rhagfyr 2011

Made 22 November 2011
Coming into force 1 December 2011

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd gan adrannau 38(8) a 39(12) o Ddeddf Rheoli Llifogydd a Dŵr 2010(1) yn gwneud y Gorchymyn a ganlyn.

The Welsh Ministers, in exercise of the powers conferred by sections 38(8) and 39(12) of the Flood and Water Management Act 2010(1) make the following Order.

Gosodwyd drafft o'r offeryn hwn gerbron Cynulliad Cenedlaethol Cymru a'i gymeradwyo ganddo drwy benderfyniad yn unol ag adrannau 38(9)(b) a 39(13)(b) o'r Ddeddf honno.

A draft of this instrument has been laid before and approved by a resolution of the National Assembly for Wales pursuant to sections 38(9)(b) and 39(13)(b) of that Act.

Enwi, cymhwyso a chychwyn

1. Enw'r Gorchymyn hwn yw Gorchymyn Llifogydd ac Erydu Arfordirol Atodol (Cymru) 2011; mae'n gymwys o ran Cymru a daw i rym ar 1 Rhagfyr 2011.

Title, application and commencement

1. The title of this Order is the Incidental Flooding and Coastal Erosion (Wales) Order 2011; it applies in relation to Wales and comes into force on 1 December 2011.

Dehongli

2. Yn y Gorchymyn hwn—

- (a) ystyr "Deddf 1991" ("*the 1991 Act*") yw Deddf Adnoddau Dŵr 1991(2); a

Interpretation

2. In this Order—

- (a) "the 1991 Act" ("*Deddf 1991*") means the Water Resources Act 1991(2); and

(1) 2010 p.29; mae'r pŵer yn cael ei roi gan adrannau 38(8) a 39(12) o Ddeddf Rheoli Llifogydd a Dŵr 2010 i "the Minister", ac mae adrannau 38(10) a 39(14) o'r Ddeddf honno yn diffinio "the Minister" at ddibenion yr adrannau hyn.

(2) 1991 p.57.

(1) 2010 c.29; the power is conferred by sections 38(8) and 39(12) of the Flood and Water Management Act 2010 on "the Minister", and sections 38(10) and 39(14) of that Act define "the Minister" for the purposes of these sections.

(2) 1991 c.57.

(b) ystyr "Deddf 2010" ("*the 2010 Act*") yw Deddf Rheoli Llifogydd a Dŵr 2010.

(b) "the 2010 Act" ("*Deddf 2010*") means the Flood and Water Management Act 2010.

Cymhwyso'r darpariaethau prynu gorfodol i adran 38 o Ddeddf 2010

3.—(1) Yn ddarostyngedig i baragraffau (3) a (4), mae adran 154 o Ddeddf 1991(1) yn gymwys at ddibenion adran 38 o Ddeddf 2010 fel petai'r swyddogaethau y cyfeirir atynt yn adran 154(1) o Ddeddf 1991 yn cynnwys swyddogaethau o dan adran 38 o Ddeddf 2010.

(2) Mae adran 157 o Ddeddf 1991(2) yn gymwys at ddibenion adran 38 o Ddeddf 2010 fel petai'r canlynol wedi eu gwneud—

- (a) bod adran 157(2)(b) wedi ei hepgor;
- (b) bod y cyfeiriad yn adran 157(6)(a) at orchymyn o dan adran 168 wedi ei hepgor; a
- (c) bod adran 157(6)(c) i (e) wedi ei hepgor.

(3) Ni chaiff awdurdodiad ei roi i Asiantaeth yr Amgylchedd o dan adran 154 o Ddeddf 1991, fel y'i cymhwysir gan baragraff (1), ond at y dibenion o alluogi'r Deyrnas Unedig i gydymffurfio â'i rhwymedigaethau o dan y canlynol—

- (a) y Gyfarwyddeb Cynefinoedd mewn perthynas ag unrhyw gamau a mesurau o dan Erthygl 6 o'r Gyfarwyddeb honno neu bolisiau o dan Erthygl 10 o'r Gyfarwyddeb honno;
- (b) y Gyfarwyddeb Fframwaith Dŵr mewn perthynas ag unrhyw amcanion amgylcheddol; neu
- (c) y Gyfarwyddeb Adar Gwyllt mewn perthynas ag unrhyw gamau a mesurau o dan Erthyglau 2, 3 neu 4 o'r Gyfarwyddeb honno.

(4) Yn yr erthygl hon—

Application of compulsory purchase provisions to section 38 of the 2010 Act

3.—(1) Subject to paragraphs (3) and (4), section 154 of the 1991 Act(1) applies for the purposes of section 38 of the 2010 Act as if the functions referred to in section 154(1) of the 1991 Act included functions under section 38 of the 2010 Act.

(2) Section 157 of the 1991 Act(2) applies for the purposes of section 38 of the 2010 Act as if—

- (a) section 157(2)(b) were omitted;
- (b) the reference in section 157(6)(a) to an order under section 168 were omitted; and
- (c) section 157(6)(c) to (e) were omitted.

(3) An authorisation to the Environment Agency under section 154 of the 1991 Act as applied by paragraph (1) may be given only for the purposes of enabling the United Kingdom to comply with its obligations under—

- (a) the Habitats Directive in relation to any steps and measures under Article 6 of that Directive or policies under Article 10 of that Directive;
- (b) the Water Framework Directive in relation to any environmental objectives; or
- (c) the Wild Birds Directive in relation to any steps and measures under Articles 2, 3 or 4 of that Directive.

(4) In this article—

(1) Mae adran 154 wedi ei diwygio gan Ddeddf yr Amgylchedd 1995 (p.25), adran 120 ac Atodlen 22, paragraffau 128 a 157. Rhoddwyd y swyddogaethau i'r Gweinidogion, sydd wedi eu diffinio yn adran 222(1) o Ddeddf Adnoddau Dŵr 1991 fel yr Ysgrifennydd Gwladol a'r Gweinidog. Trosglwyddwyd swyddogaethau perthnasol yr Ysgrifennydd Gwladol i Gynulliad Cenedlaethol Cymru yn rhinwedd erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999, ac Atodlen 1 iddo (O.S. 1999/672). Mae'r swyddogaethau hynny, bellach, yn arferadwy gan Weinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (p.32) a pharagraff 30 o Atodlen 11 iddi.

(2) Mae adran 157 wedi ei diwygio gan Ddeddf yr Amgylchedd 1995, adran 120 ac Atodlen 22, paragraffau 128 a 159. Rhoddwyd y swyddogaethau i'r Gweinidogion, sydd wedi eu diffinio yn adran 222(1) o Ddeddf Adnoddau Dŵr 1991 fel yr Ysgrifennydd Gwladol a'r Gweinidog. Trosglwyddwyd swyddogaethau perthnasol yr Ysgrifennydd Gwladol i Gynulliad Cenedlaethol Cymru yn rhinwedd erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999, ac Atodlen 1 iddo (O.S. 1999/672). Mae'r swyddogaethau hynny, bellach, yn arferadwy gan Weinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (p.32) a pharagraff 30 o Atodlen 11 iddi.

(1) Section 154 was amended by the Environment Act 1995 (c.25), section 120 and Schedule 22, paragraphs 128 and 157. The functions are conferred on the Ministers which is defined in section 222(1) of the Water Resources Act 1991 as the Secretary of State and the Minister. The relevant functions of the Secretary of State were transferred to the National Assembly for Wales by virtue of article 2 to, and Schedule 1 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Those functions are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

(2) Section 157 was amended by the Environment Act 1995, section 120 and Schedule 22, paragraphs 128 and 159. The functions are conferred on the Ministers which is defined in section 222(1) of the Water Resources Act 1991 as the Secretary of State and the Minister. The relevant functions of the Secretary of State were transferred to the National Assembly for Wales by virtue of article 2 to, and Schedule 1 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Those functions are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

- (a) mae i "amcanion amgylcheddol" yr un ystyr ag "environmental objectives" yn y Gyfarwyddeb Fframwaith Dŵr;
- (b) ystyr "y Gyfarwyddeb Cynefinoedd" ("*the Habitats Directive*") yw Cyfarwyddeb y Cyngor 92/43/EEC ar gadwraeth cynefinoedd naturiol a ffawna a ffloera gwyllt(1);
- (c) ystyr "y Gyfarwyddeb Fframwaith Dŵr" ("*the Water Framework Directive*") yw Cyfarwyddeb 2000/60/EC Senedd Ewrop a'r Cyngor sy'n sefydlu fframwaith ar gyfer gweithredu ym maes polisi dŵr(2); a
- (ch) ystyr "y Gyfarwyddeb Adar Gwyllt" ("*the Wild Birds Directive*") yw Cyfarwyddeb 2009/147/EC Senedd Ewrop a'r Cyngor ar gadwraeth adar gwyllt(3).

- (a) "environmental objectives" has the same meaning as in the Water Framework Directive;
- (b) "the Habitats Directive" ("*y Gyfarwyddeb Cynefinoedd*") means Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora(1);
- (c) "the Water Framework Directive" ("*y Gyfarwyddeb Fframwaith Dŵr*") means Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for Community action in the field of water policy(2); and
- (d) "the Wild Birds Directive" ("*y Gyfarwyddeb Adar Gwyllt*") means Directive 2009/147/EC of the European Parliament and of the Council on the conservation of wild birds(3).

Cymhwysu'r darpariaethau prynu gorfodol i adran 39 o Ddeddf 2010

4.—(1) Mae adran 154 o Ddeddf 1991 yn gymwys at ddibenion adran 39 o Ddeddf 2010 fel petai'r canlynol wedi eu gwneud—

- (a) bod y geiriau "A local authority" wedi eu rhoi yn lle'r geiriau "The Agency" lle y maent yn ymddangos am y tro cyntaf yn adran 154(1);
- (b) bod y swyddogaethau y cyfeirir atynt yn adran 154(1) yn cynnwys swyddogaethau o dan adran 39 o Ddeddf 2010;
- (c) bod y geiriau "the local authority" wedi eu rhoi yn lle'r geiriau "the Agency"—
 - (i) yn y man lle y maent yn ymddangos am yr eildro yn adran 154(1);
 - (ii) yn y man lle y maent yn ymddangos yn adran 154(2), (3) a (4); a
 - (iii) yn y man lle y maent yn ymddangos am yr ail a'r trydydd tro yn adran 154(6); ac
- (ch) mae i "local authority" yr ystyr a roddir iddo yn adran 39(6) o Ddeddf 2010.

(2) Mae adran 157 o Ddeddf 1991 yn gymwys at ddibenion adran 39 o Ddeddf 2010 fel petai'r canlynol wedi eu gwneud—

- (a) bod y geiriau "A local authority" wedi eu rhoi yn lle'r geiriau "The Agency" lle y maent yn ymddangos yn adran 157(1);
- (b) bod y geiriau "the local authority" wedi eu rhoi yn lle'r geiriau "the Agency" lle y maent yn ymddangos yn adran 157(2)(a) a (6);

Application of compulsory purchase provisions to section 39 of the 2010 Act

4.—(1) Section 154 of the 1991 Act applies for the purposes of section 39 of the 2010 Act as if—

- (a) the words "A local authority" were substituted for the words "The Agency" where they first appear in section 154(1);
- (b) the functions referred to in section 154(1) included functions under section 39 of the 2010 Act;
- (c) the words "the local authority" were substituted for the words "the Agency"—
 - (i) the second place they appear in section 154(1);
 - (ii) where they appear in section 154(2), (3) and (4); and
 - (iii) the second and third places they appear in section 154(6); and
- (d) "local authority" has the same meaning as in section 39(6) of the 2010 Act.

(2) Section 157 of the 1991 Act applies for the purposes of section 39 of the 2010 Act as if—

- (a) the words "A local authority" were substituted for the words "The Agency" where they appear in section 157(1);
- (b) the words "the local authority" were substituted for the words "the Agency" where they appear in section 157(2)(a) and (6);

(1) OJ Rhif L 206, 22.7.1992, t.7, a ddiwygiwyd ddiwethaf gan Gyfarwyddeb y Cyngor 2006/105/EC (OJ Rhif L 363, 20.12.2006, t.368).

(2) OJ Rhif L 327, 22.12.2000, t.1, a ddiwygiwyd ddiwethaf gan Gyfarwyddeb 2009/31/EC Senedd Ewrop a'r Cyngor ar storio daearegol carbon deuocsid (OJ Rhif L 140, 5.6.2009, t.114).

(3) OJ Rhif L 20, 26.1.2010, t.7.

(1) OJ No L 206, 22.7.1992, p.7, last amended by Council Directive 2006/105/EC (OJ No L 363, 20.12.2006, p.368).

(2) OJ No L 327, 22.12.2000, p.1, last amended by Directive 2009/31/EC of the European Parliament and of the Council on the geological storage of carbon dioxide (OJ No L 140, 5.6.2009, p.114).

(3) OJ No L 20, 26.1.2010, p.7.

- (c) bod adran 157(2)(b) wedi ei hepgor;
- (ch) bod y cyfeiriad yn adran 157(6)(a) at orchymyn o dan adran 168 wedi ei hepgor;
- (d) bod adran 157(6)(c) i (e) wedi ei hepgor; ac
- (dd) bod i "local authority" yr ystyr a roddir iddo yn 39(6) o Ddeddf 2010.

Cymhwyso'r darpariaethau pŵer mynediad i adran 38 o Ddeddf 2010

5.—(1) Mae adran 170 o Ddeddf 1991(1) yn gymwys at ddibenion adran 38 o Ddeddf 2010 fel petai'r cyfeiriad yn is-adran (4) at unrhyw bŵer a roddwyd gan unrhyw un neu ragor o'r darpariaethau yn adrannau 159, 160, 162(2) a (3) a 163 o Ddeddf 1991 yn gyfeiriad at unrhyw bŵer a roddwyd gan adran 38 o Ddeddf 2010.

(2) Mae adran 171 o Ddeddf 1991(2) yn gymwys at ddibenion adran 38 o Ddeddf 2010 fel petai'r canlynol wedi eu gwneud—

- (a) bod y swyddogaethau y cyfeirir atynt yn adran 171(2)(a) yn cynnwys swyddogaethau o dan adran 38 o Ddeddf 2010; a
- (b) bod adran 171(2)(b) wedi ei hepgor.

(3) Mae Atodlen 20 i Ddeddf 1991(3) yn gymwys at ddibenion adran 38 o Ddeddf 2010 fel petai'r canlynol wedi eu gwneud—

- (a) bod y cyfeiriadau ym mharagraffau 1 a 2(1)(a) at bwerau a roddwyd gan adrannau 169 i 172 o Ddeddf 1991 yn gyfeiriadau at bwerau a roddwyd gan adran 170 neu 171 o Ddeddf 1991 fel y'u cymhwysir gan yr erthygl hon;
- (b) bod y geiriau "the premises in question are on agricultural land," wedi eu mewnosod ar ôl "where" ym mharagraff 1(2);
- (c) bod y cyfeiriad ym mharagraff 1(3) at y pŵer a roddwyd gan adran 170 o Ddeddf 1991 yn gyfeiriad at y pŵer hwnnw fel y'i cymhwysir gan yr erthygl hon;

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- (1) Mae adran 170 wedi ei diwygio gan Ddeddf yr Amgylchedd 1995, adran 120 ac Atodlen 22, paragraff 128.
 - (2) Mae adran 171 wedi ei diwygio gan Ddeddf yr Amgylchedd 1995, adran 120 ac Atodlen 22, paragraff 128. Trosglwyddwyd swyddogaethau perthnasol yr Ysgrifennydd Gwladol i Gynulliad Cenedlaethol Cymru yn rhinwedd erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999, ac Atodlen 1 iddo (O.S. 1999/672). Mae'r swyddogaethau hynny, bellach, yn arferadwy gan Weinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 a pharagraff 30 o Atodlen 11 iddi.
 - (3) Mae Atodlen 20 wedi ei diwygio gan Ddeddf yr Amgylchedd 1995, adran 120 ac Atodlen 22, paragraff 128 ac 188, ac O.S. 2009/1307. Trosglwyddwyd swyddogaethau perthnasol yr Ysgrifennydd Gwladol i Gynulliad Cenedlaethol Cymru yn rhinwedd erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999, ac Atodlen 1 iddo (O.S. 1999/672). Mae'r swyddogaethau hynny, bellach, yn arferadwy gan Weinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 a pharagraff 30 o Atodlen 11 iddi.

- (c) section 157(2)(b) were omitted;
- (d) the reference in section 157(6)(a) to an order under section 168 were omitted;
- (e) section 157(6)(c) to (e) were omitted; and
- (f) "local authority" had the same meaning as in section 39(6) of the 2010 Act.

Application of power of entry provisions to section 38 of the 2010 Act

5.—(1) Section 170 of the 1991 Act(1) applies for the purposes of section 38 of the 2010 Act as if the reference in subsection (4) to any power conferred by any of the provisions of sections 159, 160, 162(2) and (3) and 163 of the 1991 Act were a reference to any power conferred by section 38 of the 2010 Act.

(2) Section 171 of the 1991 Act(2) applies for the purposes of section 38 of the 2010 Act as if—

- (a) the functions referred to in section 171(2)(a) included functions under section 38 of the 2010 Act; and
- (b) section 171(2)(b) were omitted.

(3) Schedule 20 to the 1991 Act(3) applies for the purposes of section 38 of the 2010 Act as if—

- (a) the references in paragraphs 1 and 2(1)(a) to powers conferred by sections 169 to 172 of the 1991 Act were references to powers conferred by section 170 or 171 of the 1991 Act as applied by this article;
- (b) the words "the premises in question are on agricultural land," were inserted after "where" in paragraph 1(2);
- (c) the reference in paragraph 1(3) to the power conferred by section 170 of the 1991 Act were a reference to that power as applied by this article;

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- (1) Section 170 was amended by the Environment Act 1995, section 120 and Schedule 22, paragraph 128.
 - (2) Section 171 was amended by the Environment Act 1995, section 120 and Schedule 22, paragraph 128. The relevant functions of the Secretary of State were transferred to the National Assembly for Wales by virtue of article 2 to, and Schedule 1 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Those functions are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
 - (3) Schedule 20 was amended by the Environment Act 1995, section 120 and Schedule 22, paragraphs 128 and 188, and S.I. 2009/1307. The relevant functions of the Secretary of State were transferred to the National Assembly for Wales by virtue of article 2 to, and Schedule 1 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Those functions are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

- (ch) bod y cyfeiriad ym mharagraff 2(4) at y pŵer a roddwyd gan adran 171 o Ddeddf 1991 yn gyfeiriad at y pŵer hwnnw fel y'i cymhwysir gan yr erthygl hon;
- (d) bod cyfeiriadau at bŵer y mae Atodlen 20 yn gymwys iddo yn gyfeiriadau at unrhyw bŵer a roddwyd gan adran 170 neu 171 o Ddeddf 1991 fel y'u cymhwysir gan yr erthygl hon, gan gynnwys pŵer sy'n arferadwy yn rhinwedd gwarant o dan Atodlen 20;
- (dd) bod paragraff 8(2) wedi ei hepgor; ac
- (e) bod i "agricultural land" yr ystyr a roddir iddo yn adran 145 o Ddeddf 1991.

- (d) the reference in paragraph 2(4) to the power conferred by section 171 of the 1991 Act were a reference to that power as applied by this article;
- (e) references to a power to which Schedule 20 applies were references to any power conferred by section 170 or 171 of the 1991 Act as applied by this article, including a power exercisable by virtue of a warrant under Schedule 20;
- (f) paragraph 8(2) were omitted; and
- (g) "agricultural land" had the same meaning as in section 145 of the 1991 Act.

Cymhwyso'r darpariaethau pŵer mynediad i adran 39 o Ddeddf 2010

6.—(1) Mae adran 170 o Ddeddf 1991 yn gymwys at ddibenion adran 39 o Ddeddf 2010 fel petai'r canlynol wedi eu gwneud—

- (a) bod y geiriau "a local authority" wedi eu rhoi yn lle'r geiriau "the Agency"—
 - (i) lle y maent yn ymddangos yn adran 170(1); a
 - (ii) lle y maent yn ymddangos am y tro cyntaf yn adran 170(3);
- (b) bod y geiriau "the local authority" wedi eu rhoi yn lle'r geiriau "the Agency"—
 - (i) lle y maent yn ymddangos yn adran 170(2); a
 - (ii) lle y maent yn ymddangos am yr eildro yn adran 170(3);
- (c) bod y cyfeiriad yn is-adran (4) at unrhyw bŵer a roddwyd gan unrhyw un neu ragor o'r darpariaethau yn adrannau 159, 160, 162(2) a (3) a 163 o Ddeddf 1991 yn gyfeiriad at unrhyw bŵer a roddwyd gan adran 39 o Ddeddf 2010; ac
- (ch) bod i "local authority" yr ystyr a roddir iddo yn adran 39(6) o Ddeddf 2010.

(2) Mae adran 171 o Ddeddf 1991 yn gymwys at ddibenion adran 39 o Ddeddf 2010 fel petai'r canlynol wedi eu gwneud—

- (a) bod y geiriau "a local authority" wedi eu rhoi yn lle'r geiriau "the Agency" lle y maent yn ymddangos yn adran 171(1);
- (b) bod y geiriau "the local authority" wedi eu rhoi yn lle'r geiriau "the Agency" lle y maent yn ymddangos yn adran 171(2)(a) a (3)(c);
- (c) bod y swyddogaethau y cyfeirir atynt yn adran 171(2)(a) yn cynnwys swyddogaethau o dan adran 39 o Ddeddf 2010;
- (ch) bod adran 171(2)(b) wedi ei hepgor; a
- (d) bod i "local authority" yr ystyr a roddir iddo yn adran 39(6) o Ddeddf 2010.

Application of power of entry provisions to section 39 of the 2010 Act

6.—(1) Section 170 of the 1991 Act applies for the purposes of section 39 of the 2010 Act as if—

- (a) the words "a local authority" were substituted for the words "the Agency"—
 - (i) where they appear in section 170(1); and
 - (ii) where they first appear in section 170(3);
- (b) the words "the local authority" were substituted for the words "the Agency"—
 - (i) where they appear in section 170(2); and
 - (ii) the second place they appear in section 170(3);
- (c) the reference in subsection (4) to any power conferred by any of the provisions of sections 159, 160, 162(2) and (3) and 163 of the 1991 Act were a reference to any power conferred by section 39 of the 2010 Act; and
- (d) "local authority" had the same meaning as in section 39(6) of the 2010 Act.

(2) Section 171 of the 1991 Act applies for the purposes of section 39 of the 2010 Act as if—

- (a) the words "a local authority" were substituted for the words "the Agency" where they appear in section 171(1);
- (b) the words "the local authority" were substituted for the words "the Agency" where they appear in section 171(2)(a) and (3)(c);
- (c) the functions referred to in section 171(2)(a) included functions under section 39 of the 2010 Act;
- (d) section 171(2)(b) were omitted; and
- (e) "local authority" had the same meaning as in section 39(6) of the 2010 Act.

(3) Mae Atodlen 20 i Ddeddf 1991 yn gymwys at ddibenion adran 39 o Ddeddf 2010 fel petai'r canlynol wedi eu gwneud—

- (a) bod y cyfeiriadau ym mharagraffau 1 a 2(1)(a) at bwerau a roddwyd o dan adrannau 169 i 172 o Ddeddf 1991 yn gyfeiriadau at bwerau a roddwyd gan adran 170 neu 171 o Ddeddf 1991 fel y'u cymhwysir gan yr erthygl hon;
- (b) bod y geiriau "the premises in question are on agricultural land," wedi eu mewnosod ar ôl "where" ym mharagraff 1(2);
- (c) bod y cyfeiriad ym mharagraff 1(3) at y pŵer a roddwyd gan adran 170 o Ddeddf 1991 yn gyfeiriad at y pŵer hwnnw fel y'i cymhwysir gan yr erthygl hon;
- (ch) bod y cyfeiriad ym mharagraff 2(4) at y pŵer a roddwyd gan adran 171 o Ddeddf 1991 yn gyfeiriad at y pŵer hwnnw fel y'i cymhwysir gan yr erthygl hon;
- (d) bod cyfeiriadau at bŵer y mae Atodlen 20 yn gymwys iddo yn gyfeiriadau at unrhyw bŵer a roddwyd gan adran 170 neu 171 o Ddeddf 1991 fel y'u cymhwysir gan yr erthygl hon, gan gynnwys pŵer sy'n arferadwy yn rhinwedd gwarant o dan Atodlen 20;
- (dd) bod y geiriau "a local authority" wedi eu rhoi yn lle "the Agency" ym mharagraffau 6(3)(b) ac 8;
- (e) bod paragraff 8(2) wedi ei hepgor;
- (f) bod i "agricultural land" yr ystyr a roddir iddo yn adran 145 o Ddeddf 1991; ac
- (ff) bod i "local authority" yr ystyr a roddir iddo yn adran 39(6) o Ddeddf 2010.

Cymhwyso'r darpariaethau iawndal i adran 38 o Ddeddf 2010

7. Mae is-baragraffau (1) a (2) o baragraff 5 o Atodlen 21 i Ddeddf 1991(1) yn gymwys at ddibenion adran 38 o Ddeddf 2010 fel petai'r cyfeiriadau at y pwerau o dan adran 165(1) i (3) o Ddeddf 1991 yn gyfeiriad at bwerau o dan adran 38 o Ddeddf 2010.

(3) Schedule 20 to the 1991 Act applies for the purposes of section 39 of the 2010 Act as if—

- (a) the references in paragraphs 1 and 2(1)(a) to powers conferred by sections 169 to 172 of the 1991 Act were references to powers conferred by section 170 or 171 of the 1991 Act as applied by this article;
- (b) the words "the premises in question are on agricultural land" were inserted after "where" in paragraph 1(2);
- (c) the reference in paragraph 1(3) to the power conferred by section 170 of the 1991 Act were a reference to that power as applied by this article;
- (d) the reference in paragraph 2(4) to the power conferred by section 171 of the 1991 Act were a reference to that power as applied by this article;
- (e) references to a power to which Schedule 20 applies were references to any power conferred by section 170 or 171 of the 1991 Act as applied by this article, including a power exercisable by virtue of a warrant under Schedule 20;
- (f) the words "a local authority" were substituted for "the Agency" in paragraphs 6(3)(b) and 8;
- (g) paragraph 8(2) were omitted;
- (h) "agricultural land" had the same meaning as in section 145 of the 1991 Act; and
- (i) "local authority" had the same meaning as in section 39(6) of the 2010 Act.

Application of compensation provisions to section 38 of the 2010 Act

7. Subparagraphs (1) and (2) of paragraph 5 of Schedule 21 to the 1991 Act(1) apply for the purposes of section 38 of the 2010 Act as if the reference to powers under section 165(1) to (3) of the 1991 Act were a reference to powers under section 38 of the 2010 Act.

(1) Mae is-baragraffau (1) a (2) o baragraff 5 o Atodlen 21 wedi eu diwygio gan Ddeddf yr Amgylchedd 1995, adran 120 ac Atodlen 22, paragraff 128, ac O.S. 2009/1307. Trosglwyddwyd swyddogaethau perthnasol yr Ysgrifennydd Gwladol i Gynulliad Cenedlaethol Cymru yn rhinwedd erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999, ac Atodlen 1 iddo (O.S. 1999/672). Mae'r swyddogaethau hynny, bellach, yn arferadwy gan Weinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 a pharagraff 30 o Atodlen 11 iddi.

(1) Subparagraphs (1) and (2) of paragraph 5 of Schedule 21 were amended by the Environment Act 1995, section 120 and Schedule 22, paragraphs 128, and S.I. 2009/1307. The relevant functions of the Secretary of State were transferred to the National Assembly for Wales by virtue of article 2 to, and Schedule 1 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). Those functions are now exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

Cymhwyso'r darpariaethau iawndal i adran 39 o Ddeddf 2010

8. Mae is-baragraffau (1) a (2) o baragraff 5 o Atodlen 21 i Ddeddf 1991 yn gymwys at ddibenion adran 39 o Ddeddf 2010 fel petai'r canlynol wedi eu gwneud—

- (a) bod y geiriau "a local authority" wedi eu rhoi yn lle'r geiriau "the Agency" lle y maent yn ymddangos am y tro cyntaf;
- (b) bod y geiriau "the local authority" wedi eu rhoi yn lle'r geiriau "the Agency" lle y maent yn ymddangos am yr eildro;
- (c) bod y cyfeiriad at bwerau o dan adran 165(1) i (3) o Ddeddf 1991 yn gyfeiriad at bwerau o dan adran 39 o Ddeddf 2010; ac
- (ch) bod i "local authority" yr ystyr a roddir iddo yn adran 39(6) o Ddeddf 2010.

Application of compensation provisions to section 39 of the 2010 Act

8. Subparagraphs (1) and (2) of paragraph 5 of Schedule 21 to the 1991 Act apply for the purposes of section 39 of the 2010 Act as if—

- (a) the words "a local authority" were substituted for the words "the Agency" where they first appear;
- (b) the words "the local authority" were substituted for the words "the Agency" the second place they appear;
- (c) the reference to powers under section 165(1) to (3) of the 1991 Act were a reference to powers under section 39 of the 2010 Act; and
- (d) "local authority" had the same meaning as in section 39(6) of the 2010 Act.

John Griffiths

Gweinidog yr Amgylchedd a Datblygu Cynaliadwy, un o Weinidogion Cymru

22 Tachwedd 2011

Minister for Environment and Sustainable Development, one of the Welsh Ministers

22 November 2011

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