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OFFERYNNAU STATUDOL  
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WELSH STATUTORY  
INSTRUMENTS

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**2018 Rhif 1182 (Cy. 241)**

**2018 No. 1182 (W. 241)**

**Y DIWYDIANT DŴR, CYMRU**

**WATER INDUSTRY, WALES**

Gorchymyn Draenio Cynaliadwy  
(Gorfodi) (Cymru) 2018

The Sustainable Drainage  
(Enforcement) (Wales) Order 2018

**NODYN ESBONIADOL**

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

**EXPLANATORY NOTE**

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

Mae'r Gorchymyn hwn yn darparu ar gyfer gorfodi unrhyw doriad o'r gymeradwyaeth sy'n ofynnol ("y gofyniad i gael cymeradwyaeth") o dan baragraff 7(1) o Atodlen 3 i Ddeddf Rheoli Llifogydd a Dŵr 2010 (p. 29) ("y Ddeddf") mewn perthynas â systemau draenio ar gyfer gwaith adeiladu.

Mae erthygl 3 yn darparu y caiff corff cymeradwyo gytuno â'r awdurdod cynllunio lleol y caniateir i'r awdurdod hwnnw arfer swyddogaethau gorfodi o dan y Gorchymyn hwn ar ran y corff cymeradwyo.

Mae erthygl 4 yn darparu ar gyfer pwerau mynediad i eiddo person a awdurdodir gan gorff cymeradwyo at y diben o ganfod pa un a dorwyd y gofyniad i gael cymeradwyaeth neu ba un a gydymffurfiwyd â hysbysiad stop dros dro, hysbysiad gorfodi neu hysbysiad stop, gan gynnwys o dan ba amgylchiadau y caniateir i gais gael ei wneud i lys am warant.

Mae erthygl 5 yn darparu ar gyfer yr amgylchiadau y caiff datblygwr neu berson arall adennill digollediad mewn perthynas â cholled yr aed iddi o ganlyniad i arfer pwerau mynediad yn unol ag erthygl 4 oddi tanynt.

Mae erthygl 6 yn rhoi pŵer i gorff cymeradwyo roi hysbysiad stop dros dro i ddatblygwr, pan fo gan y corff reswm i gredu bod datblygwr wedi torri'r gofyniad i gael cymeradwyaeth. Mae hyd hysbysiad o'r fath wedi ei gyfyngu yn unol â'r erthygl honno.

This Order provides for the enforcement of breach of the approval required ("the requirement for approval") under paragraph 7(1) of Schedule 3 to the Flood and Water Management Act 2010 (c. 29) ("the Act") in relation to drainage systems for construction work.

Article 3 provides that an approving body may agree with the local planning authority that that authority may exercise enforcement functions under this Order on behalf of the approving body.

Article 4 provides for powers of entry onto property of a person authorised by an approving body for the purpose of ascertaining whether there has been a breach of requirement for approval or whether a temporary stop notice, enforcement notice or stop notice has been complied with, including circumstances in which an application may be made to a court for a warrant.

Article 5 provides for the circumstances in which a developer or other person may recover compensation in relation to loss incurred as a result of the exercise of powers of entry pursuant to article 4.

Article 6 confers power on an approving body to give a temporary stop notice to a developer, where the body has reason to believe that a developer has breached the requirement for approval. The duration of such a notice is limited in accordance with that article.

Mae erthygl 7 yn darparu ar gyfer yr amgylchiadau y caiff datblygwr adennill digollediad mewn perthynas â cholled yr aed iddi o ganlyniad i gael hysbysiad stop dros dro oddi tanynt.

Mae erthygl 8 yn rhoi pŵer i gorff cymeradwyo, pan fo datblygwr wedi torri'r gofyniad i gael cymeradwyaeth, roi hysbysiad i'r datblygwr ("hysbysiad gorfodi"), sy'n pennu'r camau i'w cymryd gan y datblygwr i unioni'r toriad.

Mae erthygl 9 yn pennu'r camau i'w cymryd gan ddatblygwr, y mae rhaid eu cynnwys mewn hysbysiad gorfodi mewn amgylchiadau penodedig, ac yn darparu ar gyfer y camau y caiff y corff cymeradwyo eu cymryd os na chydymffurfir â'r hysbysiad.

Mae erthygl 10 yn rhoi pŵer i gorff cymeradwyo roi hysbysiad stop i ddatblygwr, mewn amgylchiadau pan fo'r datblygwr wedi apelio yn erbyn hysbysiad gorfodi a bod y corff cymeradwyo yn meddwl ei fod yn hwylus i'r gwaith adeiladu y mae'r hysbysiad gorfodi yn ymwneud ag ef stopio ar unwaith. Mae erthygl 10 hefyd yn darparu ar gyfer yr amgylchiadau y mae hysbysiad o'r fath yn peidio â chael effaith oddi tanynt.

Mae erthygl 11 yn ei gwneud yn ofynnol i'r corff cymeradwyo gadw cofrestr o'r holl hysbysiadau stop, hysbysiadau stop dros dro a hysbysiadau gorfodi y mae'n eu rhoi, ac yn rhagnodi'r wybodaeth i'w chynnwys yn y gofrestr.

Mae erthygl 12 yn darparu i ddatblygwr apelio i Weinidogion Cymru yn erbyn hysbysiad gorfodi ar y seiliau a bennir yn yr erthygl.

Mae erthygl 13 yn rhagnodi o fewn pa gyfnod y mae'n rhaid gwneud apêl.

Mae erthygl 14 yn rhagnodi cynnwys hysbysiad apêl, a'r camau y mae rhaid eu cymryd i wneud apêl.

Mae erthygl 15 yn darparu ar gyfer defnyddio cyfathrebu electronig, ac mae erthygl 16 yn darparu ar gyfer tynnu'n ôl y cydsyniad i ddefnyddio cyfathrebu electronig mewn perthynas ag apelau.

Mae erthygl 17 yn gwneud darpariaeth i adran 319B o Ddeddf Cynllunio Gwlad a Thref 1990 (p. 8) ("Deddf 1990") a Rheoliadau Cynllunio Gwlad a Thref (Ceisiadau Atgyfeiriedig a Gweithdrefn Apelau) (Cymru) 2017 (O.S. 2017/544 (Cy. 121)) fod yn gymwys, gydag addasiadau priodol, i apêl yn erbyn hysbysiad gorfodi o dan y Gorchymyn hwn, fel pe bai'n apêl yn erbyn hysbysiad gorfodi cynllunio.

Mae erthygl 18 yn darparu mai Gweinidogion Cymru fydd yn penderfynu ar apêl o dan y Gorchymyn hwn.

Article 7 provides for the circumstances in which a developer may recover compensation in relation to loss incurred as a result of being given a temporary stop notice.

Article 8 confers power on an approving body, where a developer has breached the requirement for approval, to give a notice to the developer (an "enforcement notice"), specifying the steps to be taken by the developer to remedy the breach.

Article 9 specifies the steps to be taken by a developer, that must be included in an enforcement notice in specified circumstances, and provides for the steps the approving body may take in the event of non-compliance with the notice.

Article 10 confers power on an approving body to give a developer a stop notice, in circumstances where the developer has appealed against an enforcement notice and the approving body thinks it expedient that the construction work to which the enforcement notice relates, should stop immediately. Article 10 also provides for the circumstances in which such a notice ceases to have effect.

Article 11 requires the approving body to maintain a register of all stop notices, temporary stop notices and enforcement notices that it gives, and prescribes the information to be entered in the register.

Article 12 provides for a developer to appeal to the Welsh Ministers against an enforcement notice on grounds specified in the article.

Article 13 prescribes the period within which an appeal must be made.

Article 14 prescribes the content of a notice of appeal, and the actions that must be taken to make an appeal.

Articles 15 and 16 provide respectively, for the use of electronic communications and withdrawal of consent to the use of electronic communications in relation to appeals.

Article 17 makes provision for section 319B of the Town and Country Planning Act 1990 (c. 8) ("the 1990 Act") and the Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017 (S.I. 2017/544 (W. 121)) to apply, with appropriate modifications, to an appeal against an enforcement notice under this Order, as if it was an appeal against a planning enforcement notice.

Article 18 provides that the Welsh Ministers are to determine an appeal under this Order.

Mae erthygl 19 yn darparu ar gyfer pwerau Gweinidogion Cymru i benderfynu ar apel yn erbyn hysbysiad gorfodi.

Mae erthygl 20 yn darparu ar gyfer gweithdrefn mewn perthynas â thystiolaeth mewn gwrandawriad neu ymchwiliad drwy gymhwyso, yn ddarostyngedig i addasiadau priodol, isadrannau (2) a (3) o adran 250 o Ddeddf Llywodraeth Leol 1972 (p. 70) (ymchwiliadau lleol: tystiolaeth a chostau), ac mewn perthynas â chostau, drwy gymhwyso adran 322C o Ddeddf 1990 (costau: Cymru).

Mae erthygl 21 yn darparu ar gyfer trosedd o fethu â chydymffurfio â hysbysiad stop dros dro, hysbysiad gorfodi neu hysbysiad stop.

Mae erthygl 22 yn darparu ar gyfer trosedd o rwystro'n fwriadol berson a awdurdodir gan gorff cymeradwyo sy'n arfer pwerau mynediad o dan erthygl 4.

Mae erthygl 23 yn gwneud darpariaeth ar gyfer atebolrwydd swyddogion ac aelodau pan fo trosedd o dan y Gorchymyn hwn yn cael ei chyflawni gan gorff corfforaethol.

Mae erthygl 24 yn gwneud darpariaeth ar gyfer atebolrwydd partneriaethau a phartneriaid, pan fo trosedd o dan y Gorchymyn hwn yn cael ei chyflawni gan bartneriaeth, ac ar gyfer atebolrwydd cymdeithasau anghorfforedig a'u swyddogion pan fo trosedd o'r fath yn cael ei chyflawni gan gymdeithas anghorfforedig.

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

Article 19 provides for the powers of the Welsh Ministers in determining an appeal against an enforcement notice.

Article 20 provides for procedure in relation to evidence in a hearing or inquiry, by applying, subject to appropriate modifications, subsections (2) and (3) of section 250 of the Local Government Act 1972 (c. 70) (local inquiries: evidence and costs), and in relation to costs, by applying section 322C of the 1990 Act (costs: Wales).

Article 21 provides for an offence of failure to comply with a temporary stop notice, enforcement notice or stop notice.

Article 22 provides for an offence of wilful obstruction of a person authorised by an approving body who is exercising powers of entry under Article 4.

Article 23 makes provision for liability of officers and members where an offence under this Order is committed by a body corporate.

Article 24 makes provision for liability of partnerships and partners, where an offence under this Order is committed by a partnership, and for the liability of unincorporated associations and their officers, where such an offence is committed by an unincorporated association.

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

**2018 Rhif 1182 (Cy. 241)**

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**Y DIWYDIANT DŴR, CYMRU**

**WATER INDUSTRY, WALES**

**Gorchymyn Draenio Cynaliadwy  
(Gorfodi) (Cymru) 2018**

**The Sustainable Drainage  
(Enforcement) (Wales) Order 2018**

*Gwnaed* 13 Tachwedd 2018

*Made* 13 November 2018

*Yn dod i rym* 7 Ionawr 2019

*Coming into force* 7 January 2019

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adrannau 32 a 48(2) o Ddeddf Rheoli Llifogydd a Dŵr 2010(1), a pharagraffau 4(a) a 14 o Atodlen 3 iddi, yn gwneud y Gorchymyn a ganlyn.

The Welsh Ministers, in exercise of the powers conferred by sections 32 and 48(2) of, and paragraphs 4(a) and 14 of Schedule 3 to, the Flood and Water Management Act 2010(1), make the following Order.

Yn unol â pharagraff 14(5)(b) o Atodlen 3 i'r Ddeddf honno, gosodwyd drafft o'r offeryn hwn gerbron Cynulliad Cenedlaethol Cymru ac fe'i cymeradwywyd ganddo drwy benderfyniad.

In accordance with paragraph 14(5)(b) of Schedule 3 to that Act a draft of this instrument has been laid before and approved by, a resolution of the National Assembly for Wales.

**RHAN 1**

**PART 1**

**Cyflwyniad**

**Introduction**

**Enwi a chychwyn**

**Title and commencement**

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Draenio Cynaliadwy (Gorfodi) (Cymru) 2018.

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

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

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

**Dehongli**

**Interpretation**

2.—(1) Yn y Gorchymyn hwn—

2.—(1) In this Order—

ystyr “apelydd” (“*appellant*”) yw datblygwr sy'n gwneud apêl o dan y Gorchymyn hwn;

“the 1990 Act” (“*Deddf 1990*”) means the Town and Country Planning Act 1990(2);

ystyr “ardal adeiladu” (“*construction area*”) yw—

“appellant” (“*apelydd*”) means a developer who makes an appeal under this Order;

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

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

(2) 1990 c. 8.

- (a) yr ardal o dir a nodir ar blun sy'n mynd gyda'r cais am ganiatâd cynllunio, neu
- (b) os na wnaed cais am ganiatâd cynllunio, yr ardal o dir y mae gwaith adeiladu wedi cychwyn arno, neu y bwriedir cychwyn gwaith adeiladu arno;

ystyr "Atodlen 3" ("*Schedule 3*") yw Atodlen 3 i Ddeddf Rheoli Llifogydd a Dŵr 2010;

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

mae i "cyfathrebiad electronig" yr ystyr a roddir i "electronic communication" yn adran 15(1) o Ddeddf Cyfathrebiadau Electronig 2000(2);

ystyr "cymeradwyaeth" ("*approval*") yw'r gymeradwyaeth sy'n ofynnol o dan baragraff 7(1) o Atodlen 3 mewn perthynas â system ddraenio ar gyfer gwaith adeiladu;

ystyr "datblygwr" ("*developer*") yw person sy'n cychwyn gwaith adeiladu neu'n bwriadu cychwyn gwaith adeiladu;

ystyr "Deddf 1990" ("*the 1990 Act*") yw Deddf Cynllunio Gwlad a Thref 1990(3);

ystyr "hysbysiad apêl" ("*notice of appeal*") yw hysbysiad o dan erthygl 14;

mae i "hysbysiad gorfodi" ("*enforcement notice*") yr ystyr a roddir yn erthygl 8;

mae i "hysbysiad stop" ("*stop notice*") yr ystyr a roddir yn erthygl 10;

mae i "hysbysiad stop dros dro" ("*temporary stop notice*") yr ystyr a roddir yn erthygl 6;

ystyr "person awdurdodedig" ("*authorised person*") yw person a awdurdodir gan gorff cymeradwyo;

ystyr "pwerau mynediad" ("*powers of entry*") yw'r pwerau a roddir gan erthygl 4;

mae i "terfyn amser ar gyfer gwneud apêl" ("*time limit for making an appeal*") yr ystyr a roddir yn erthygl 13;

ystyr "toriad" ("*breach*"), mewn perthynas â'r gofyniad i gael cymeradwyaeth, yw—

- (a) cychwyn gwaith adeiladu(4) heb gymeradwyaeth,
- (b) torri un o amodau'r gymeradwyaeth, neu

"approval" ("*cymeradwyaeth*") means the approval required under paragraph 7(1) of Schedule 3 for a drainage system for construction work;

"authorised person" ("*person awdurdodedig*") means a person authorised by an approving body;

"breach" ("*toriad*"), in relation to the requirement for approval, means—

- (a) construction work(1) is commenced without approval,
- (b) a condition of approval is breached, or
- (c) construction work does not conform to the approved proposals;

"construction area" ("*ardal adeiladu*") means—

- (a) the area of land identified on a plan accompanying an application for planning permission, or
- (b) if an application for planning permission has not been made, the area of land on which construction work has commenced or is proposed to be commenced;

"developer" ("*datblygwr*") means a person who commences or proposes to commence construction work;

"electronic communication" ("*cyfathrebiad electronig*") has the meaning given in section 15(1) of the Electronic Communications Act 2000(2);

"enforcement notice" ("*hysbysiad gorfodi*") has the meaning given in article 8;

"local planning authority" ("*awdurdod cynllunio lleol*") has the meaning given in section 1(1B)(3) of the 1990 Act;

"notice of appeal" ("*hysbysiad apêl*") means a notice under article 14;

"powers of entry" ("*pwerau mynediad*") means the powers conferred by article 4;

"Schedule 3" ("*Atodlen 3*") means Schedule 3 to the Flood and Water Management Act 2010;

"stop notice" ("*hysbysiad stop*") has the meaning given in article 10;

"temporary stop notice" ("*hysbysiad stop dros dro*") has the meaning given in article 6;

(1) Mewnosodwyd adran 1(1B) gan adran 18(3) o Ddeddf Llywodraeth Leol (Cymru) 1994 (p. 19).

(2) 2000 p. 7. Diwygiwyd adran 15(1) gan baragraff 158 o Atodlen 17 i Ddeddf Cyfathrebiadau 2003 (p. 21).

(3) 1990 p. 8.

(4) Diffinnir "construction work" ym mharagraff 7(2)(a) o Atodlen 3.

(1) "Construction work" is defined in paragraph 7(2)(a) of Schedule 3.

(2) 2000 c. 7. Section 15(1) was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).

(3) Section 1(1B) was inserted by section 18(3) of the Local Government (Wales) Act 1994 (c. 19).

- (c) nad yw gwaith adeiladu yn cydymffurfio â'r cynigion a gymeradwywyd.

(2) Yn y Gorchymyn hwn, mae cyfeiriad at “gwaith adeiladu” i’w ddehongli fel cyfeiriad at waith adeiladu sydd â goblygiadau o ran draenio(1).

## RHAN 2

### Arfer swyddogaethau gorfodi

#### Cytundeb i arfer swyddogaethau gorfodi

3.—(1) Caiff corff cymeradwyo(2) gytuno â'r awdurdod cynllunio lleol (“yr Awdurdod”) y caiff yr Awdurdod arfer swyddogaeth orfodi o dan y Gorchymyn hwn fel pe bai'r awdurdod oedd y corff cymeradwyo.

(2) Caiff y cytundeb—

- (a) ymwneud ag unrhyw doriad o'r gofyniad i gael cymeradwyaeth, a
- (b) cynnwys trefniadau i ad-dalu'r costau yr aed iddynt gan yr Awdurdod wrth arfer y swyddogaeth orfodi.

(3) Yn yr erthygl hon, ystyr “swyddogaeth orfodi” yw unrhyw swyddogaeth sy'n arferadwy gan y corff cymeradwyo mewn perthynas ag—

- (a) pwerau mynediad;
- (b) hysbysiad stop dros dro, hysbysiad gorfodi neu hysbysiad stop.

#### Pwerau mynediad

4.—(1) Caiff person awdurdodedig ar unrhyw adeg resymol fynd i ardal adeiladu (ac eithrio unrhyw fangre yn yr ardal adeiladu a ddefnyddir yn gyfan gwbl neu'n bennaf fel tŷ annedd preifat) i ganfod—

- (a) a dorwyd y gofyniad i gael cymeradwyaeth, neu
- (b) a chydymffurfwyd â hysbysiad stop dros dro, hysbysiad stop neu hysbysiad gorfodi.

(2) Mae paragraff (1) yn ddarostyngedig i baragraff (4).

(3) Rhaid i'r person awdurdodedig, ar gais, ddangos tystiolaeth o awdurdodiad.

“time limit for making an appeal” (“*terfyn amser ar gyfer gwneud apêl*”) has the meaning given in article 13.

(2) In this Order a reference to “construction work” is to be construed as a reference to construction work having drainage implications(1).

## PART 2

### Exercise of enforcement functions

#### Agreement to exercise enforcement function

3.—(1) An approving body(2) may agree with the local planning authority (“the Authority”) that the Authority may exercise an enforcement function under this Order as if it were the approving body.

(2) The agreement—

- (a) may relate to any breach of the requirement for approval, and
- (b) may contain arrangements to reimburse the costs incurred by the Authority in exercising the enforcement function.

(3) In this article, “enforcement function” means any function exercisable by the approving body in relation to—

- (a) powers of entry;
- (b) a temporary stop notice, enforcement notice or stop notice.

#### Powers of entry

4.—(1) An authorised person may at any reasonable time enter a construction area (except any premises in the construction area used wholly or mainly as a private dwelling house) to determine if—

- (a) there has been a breach of the requirement for approval, or
- (b) a temporary stop notice, stop notice or enforcement notice has been complied with.

(2) Paragraph (1) is subject to paragraph (4).

(3) The authorised person must on request produce evidence of authorisation.

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

(2) Diffinnir “approving body” ym mharagraff 6 o Atodlen 3.

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

(2) “Approving body” is defined in paragraph 6 of Schedule 3.

(4) Mewn argyfwng, caniateir arfer pwerau mynediad ar unrhyw adeg.

(5) Ni chaiff person awdurdodedig arfer pwerau mynediad i ganfod a dorrwyd y gofyniad i gael cymeradwyaeth os yw system ddraenio ar gyfer y gwaith adeiladu wedi ei mabwysiadu.

(6) Caiff ynad heddwch, drwy warant wedi ei llofnodi, ganiatáu i berson awdurdodedig fynd i unrhyw fangre mewn ardal adeiladu, a hynny gan ddefnyddio grym rhesymol os oes angen, os yw'r ynad wedi ei fodloni ar sail gwybodaeth ysgrifenedig a roddir ar lw—

- (a) bod sail resymol dros fynd i'r fangre at ddibenion paragraff (1) o'r erthygl hon, a
- (b) bod unrhyw un o'r amodau ym mharagraff (7) wedi ei fodloni.

(7) Yr amodau yw—

- (a) bod mynediad i'r fangre wedi ei wrthod, neu'n debygol o gael ei wrthod, a bod hysbysiad o'r bwriad i wneud cais am warant wedi ei roi i'r meddiannydd;
- (b) y byddai gofyn am gael mynediad i'r fangre, neu roi hysbysiad o'r fath, yn mynd yn groes i fwriad mynd i'r fangre;
- (c) bod angen mynediad ar frys;
- (d) bod y fangre heb ei meddiannu neu fod y meddiannydd yn absennol dros dro.

(8) Mae gwarant yn ddilys am 3 mis.

(9) Rhaid i berson awdurdodedig sy'n mynd i fangre nad yw wedi ei meddiannu, neu y mae ei meddiannydd yn absennol ohoni dros dro, ei gadael wedi ei diogelu yr un mor effeithiol rhag mynediad heb awdurdod ag yr ydoedd cyn iddo fynd iddi.

### **Digollediad am golled o ganlyniad i arfer pwerau mynediad**

5.—(1) Mae gan ddatblygwr neu berson arall hawlogaeth i ddigollediad—

- (a) os yw person awdurdodedig yn mynd i ardal adeiladu neu unrhyw fangre mewn ardal adeiladu drwy arfer pwerau mynediad ond nad yw'n dod o hyd i unrhyw dystiolaeth o dorri'r gofyniad i gael cymeradwyaeth, a
- (b) os yw'r datblygwr neu berson arall yn cael colled o ganlyniad i arfer y pwerau hynny.

(2) Os yw person awdurdodedig yn mynd i ardal adeiladu neu unrhyw fangre mewn ardal adeiladu drwy arfer pwerau mynediad ac y canfyddir y torrwyd y gofyniad i gael cymeradwyaeth, mae digollediad yn daladwy—

(4) In an emergency, powers of entry may be exercised at any time.

(5) An authorised person may not exercise powers of entry to determine if there has been a breach of the requirement for approval if a drainage system for the construction work has been adopted.

(6) A justice of the peace may, by signed warrant, permit an authorised person to enter any premises in a construction area, if necessary by reasonable force, if the justice on sworn information in writing is satisfied—

- (a) that there are reasonable grounds to enter the premises for the purposes of paragraph (1) of this article, and
- (b) that any of the conditions in paragraph (7) are met.

(7) The conditions are—

- (a) entry to the premises has been, or is likely to be, refused, and notice of the intention to apply for a warrant has been given to the occupier;
- (b) asking for admission to the premises, or giving such a notice, would defeat the object of the entry;
- (c) entry is required urgently;
- (d) the premises are unoccupied or the occupier is temporarily absent.

(8) A warrant is valid for 3 months.

(9) An authorised person entering premises which are unoccupied or from which the occupier is temporarily absent must leave the premises as effectively secured against unauthorised entry as they were before entry.

### **Compensation for loss resulting from exercise of powers of entry**

5.—(1) A developer or other person is entitled to compensation if—

- (a) an authorised person enters a construction area or any premises in a construction area in exercise of powers of entry but finds no evidence of a breach of the requirement for approval, and
- (b) as a result of the exercise of those powers the developer or other person incurs loss.

(2) If an authorised person enters a construction area or any premises in a construction area in exercise of powers of entry and a breach of the requirement for approval is found, compensation is payable—

(a) i'r datblygwr am unrhyw golled o ganlyniad i arfer y pwerau hynny yn afresymol yn unig;

(b) i unrhyw berson arall fel pe bai dim tystiolaeth o doriad wedi ei ganfod.

(3) Rhaid gwneud unrhyw hawliad am ddigollediad i'r corff cymeradwyo o fewn 12 mis ar ôl arfer y pwerau hynny.

(4) Mae anghydfodau ynghylch digollediad i'w penderfynu gan yr Uwch Dribiwnlys.

(a) to the developer for any loss resulting only from an unreasonable exercise of those powers;

(b) to any other person as if no evidence of a breach were found.

(3) Any claim for compensation must be made to the approving body within 12 months after the exercise of those powers.

(4) Disputes about compensation are to be determined by the Upper Tribunal.

## RHAN 3

### Hysbysiadau

#### Hysbysiadau stop dros dro

6.—(1) Caiff corff cymeradwyo roi hysbysiad (“hysbysiad stop dros dro”) i ddatblygwr os oes gan y corff cymeradwyo reswm i gredu—

(a) bod y datblygwr wedi torri'r gofyniad i gael cymeradwyaeth, a

(b) ei bod yn hwylus bod y gwaith adeiladu yn stopio ar unwaith.

(2) Rhaid i hysbysiad stop dros dro fod yn ysgrifenedig a rhaid iddo—

(a) pennu'r gweithgarwch y credir ei fod yn doriad,

(b) rhoi rhesymau dros y farn honno,

(c) gwahardd y datblygwr rhag parhau â'r gweithgarwch, a

(d) pennu canlyniadau peidio â chydymffurfio â'r hysbysiad.

(3) Caiff corff cymeradwyo ar unrhyw adeg dynnu hysbysiad stop dros dro yn ôl drwy roi hysbysiad ysgrifenedig i ddatblygwr sy'n nodi'r rhesymau dros y penderfyniad i'w dynnu'n ôl.

(4) Mae hysbysiad stop dros dro yn cael effaith o'r adeg y'i rhoddir ac, oni bai y caiff ei dynnu'n ôl yn gynharach, mae'n peidio â chael effaith ar ddiwedd—

(a) y cyfnod o 4 wythnos sy'n dechrau â'r diwrnod y'i rhoddir, neu

(b) unrhyw gyfnod byrrach a bennir yn yr hysbysiad, gan ddechrau â'r diwrnod y'i rhoddir.

(5) Ni chaniateir rhoi ail hysbysiad stop dros dro neu hysbysiad stop dros dro dilynol mewn cysylltiad â'r un gweithgarwch oni bai bod y corff cymeradwyo wedi cymryd unrhyw gamau gorfodi eraill yn gyntaf mewn perthynas â'r toriad.

## PART 3

### Notices

#### Temporary stop notices

6.—(1) An approving body may give a notice (“a temporary stop notice”) to a developer if the approving body has reason to believe that—

(a) the developer has breached the requirement for approval, and

(b) it is expedient that the construction work stop immediately.

(2) A temporary stop notice must be in writing and must—

(a) specify the activity that is believed to be a breach,

(b) give reasons for that view,

(c) prohibit the developer from continuing with the activity, and

(d) specify the consequences of non-compliance with the notice.

(3) An approving body may at any time withdraw a temporary stop notice by giving written notice to a developer setting out reasons for the decision to withdraw it.

(4) A temporary stop notice has effect from the time it is given and, unless it is earlier withdrawn, ceases to have effect at the end of—

(a) the period of 4 weeks beginning with the day it is given, or

(b) any shorter period specified in the notice, beginning with the day it is given.

(5) A second or subsequent temporary stop notice must not be given in respect of the same activity unless the approving body has first taken some other enforcement action in relation to the breach.



### **Digollediad am golled o ganlyniad i hysbysiad stop dros dro**

7.—(1) Mae gan ddatblygwr sy'n cael colled o ganlyniad i gael hysbysiad stop dros dro hawlogoaeth i ddigollediad—

- (a) os yw'r corff cymeradwyo yn tynnu'r hysbysiad yn ôl, neu
- (b) os nad yw'r corff cymeradwyo yn cymryd unrhyw gamau gorfodi pellach.

(2) Rhaid gwneud unrhyw hawliad am ddigollediad i'r corff cymeradwyo o fewn 12 mis ar ôl i'r hysbysiad gael ei dynnu'n ôl neu ar ôl iddo beidio â chael effaith, pa un bynnag sydd gynharaf.

(3) Mae anghydfodau ynghylch digollediad i'w penderfynu gan yr Uwch Dribiwnlys.

### **Hysbysiadau gorfodi**

8.—(1) Os yw datblygwr yn torri'r gofyniad i gael cymeradwyaeth, caiff y corff cymeradwyo roi hysbysiad i'r datblygwr sy'n ei gwneud yn ofynnol i'r datblygwr gymryd camau i unioni'r toriad ("hysbysiad gorfodi").

(2) Caniateir rhoi hysbysiad gorfodi ar unrhyw adeg cyn y mabwysiedir system ddraenio ar gyfer y gwaith adeiladu, ond nid hwyrach na 4 blynedd ar ôl i'r toriad ddigwydd.

(3) Rhaid i hysbysiad gorfodi fod yn ysgrifenedig a rhaid iddo bennu—

- (a) yr ardal adeiladu y mae'r hysbysiad yn ymwneud â hi,
- (b) manylion y toriad,
- (c) y camau y mae'n rhaid i'r datblygwr eu cymryd i unioni'r toriad,
- (d) y dyddiad erbyn pryd y mae'n rhaid cymryd y camau,
- (e) hawliau apelio, gan gynnwys y terfyn amser ar gyfer gwneud apêl, a
- (f) canlyniadau peidio â chydymffurfio â'r hysbysiad.

(4) Ni chaiff hysbysiad gorfodi ei gwneud yn ofynnol i'r datblygwr gymryd unrhyw gamau tan o leiaf 4 wythnos ar ôl y dyddiad y rhoddir yr hysbysiad.

(5) Caiff corff cymeradwyo ar unrhyw adeg, drwy hysbysiad ysgrifenedig i ddatblygwr—

- (a) tynnu hysbysiad gorfodi yn ôl, gan roi rhesymau, neu
- (b) amrywio hysbysiad gorfodi drwy—
  - (i) lleihau faint o waith sy'n angenrheidiol i gydymffurfio â'r hysbysiad, neu
  - (ii) estyn y cyfnod ar gyfer cymryd unrhyw gam a bennir yn yr hysbysiad.

### **Compensation for loss resulting from temporary stop notice**

7.—(1) A developer who suffers loss as a result of being given a temporary stop notice is entitled to compensation if the approving body—

- (a) withdraws the notice, or
- (b) does not take any further enforcement action.

(2) Any claim for compensation must be made to the approving body within 12 months after the notice is withdrawn or ceases to have effect, whichever is the earlier.

(3) Disputes about compensation are to be determined by the Upper Tribunal.

### **Enforcement notices**

8.—(1) If a developer breaches the requirement for approval, the approving body may give a notice to the developer requiring the developer to take steps to remedy the breach ("an enforcement notice").

(2) An enforcement notice may be given at any time before a drainage system for the construction work is adopted but not later than 4 years after the breach occurs.

(3) An enforcement notice must be in writing and must specify—

- (a) the construction area to which the notice relates,
- (b) details of the breach,
- (c) the steps which the developer must take to remedy the breach,
- (d) the date by which the steps must be taken,
- (e) rights of appeal, including the time limit for making an appeal, and
- (f) the consequences of non-compliance with the notice.

(4) An enforcement notice must not require the developer to take any steps until at least 4 weeks after the date on which the notice is given.

(5) An approving body may at any time by written notice to a developer—

- (a) withdraw an enforcement notice, giving reasons, or
- (b) vary an enforcement notice by—
  - (i) reducing the amount of work necessary to comply with the notice, or
  - (ii) extending the time for taking any step specified in the notice.

## Camau sy'n ofynnol gan hysbysiad gorfodi

9.—(1) Ar gyfer gwaith adeiladu a gychwynnir heb gymeradwyaeth, rhaid i'r hysbysiad gorfodi ei gwneud yn ofynnol i'r datblygwr—

- (a) gwneud cais am gymeradwyaeth (gan wneud y cais fel pe na bai'r gwaith adeiladu wedi cychwyn), neu
- (b) adfer yr ardal adeiladu i'r cyflwr yr oedd ynddo cyn i'r gwaith adeiladu gychwyn.

(2) Ar gyfer achos o dorri amod cymeradwyaeth, rhaid i'r hysbysiad gorfodi ei gwneud yn ofynnol i'r datblygwr—

- (a) gwneud gwaith i sicrhau bod y system ddraenio yn cydymffurfio â'r amodau cymeradwyo, neu
- (b) adfer yr ardal adeiladu i'r cyflwr yr oedd ynddo cyn i'r gwaith adeiladu gychwyn.

(3) Ar gyfer gwaith adeiladu nad yw'n cydymffurfio â'r cynigion a gymeradwywyd, rhaid i'r hysbysiad gorfodi ei gwneud yn ofynnol i'r datblygwr—

- (a) gwneud gwaith i sicrhau bod y system ddraenio yn cydymffurfio â'r cynigion a gymeradwywyd, neu
- (b) adfer yr ardal adeiladu i'r cyflwr yr oedd ynddo cyn i'r gwaith adeiladu gychwyn.

(4) Os yw datblygwr yn methu â chydymffurfio â hysbysiad gorfodi, caiff y corff cymeradwyo—

- (a) cymryd y camau a bennir yn yr hysbysiad gorfodi neu awdurdodi person arall i gymryd y camau hynny, a
- (b) ei gwneud yn ofynnol i'r datblygwr dalu treuliau yr aed iddynt o dan is-baragraff (a), gyda'r fath dreuliau i fod yn adenilladwy fel dyled.

(5) Caiff y corff cymeradwyo neu berson a awdurdodir o dan baragraff (4)(a) ar unrhyw adeg resymol fynd i ardal adeiladu i gymryd y camau a bennir yn yr hysbysiad gorfodi.

## Hysbysiadau stop

10.—(1) Caiff corff cymeradwyo roi hysbysiad (“hysbysiad stop”) i ddatblygwr—

- (a) os yw'r datblygwr wedi apelio yn erbyn hysbysiad gorfodi, a
- (b) os yw'r corff cymeradwyo yn meddwl ei bod yn hwylus y dylai'r gwaith adeiladu ar y tir y mae'r hysbysiad gorfodi yn ymwneud ag ef stopio ar unwaith.

## Steps required by an enforcement notice

9.—(1) For construction work commenced without approval, the enforcement notice must require the developer—

- (a) to apply for approval (the application to be made as if construction work had not commenced), or
- (b) to restore the construction area to the condition it was in before the construction work began.

(2) For a breach of a condition of approval, the enforcement notice must require the developer—

- (a) to carry out work to ensure the drainage system complies with the conditions of approval, or
- (b) to restore the construction area to the condition it was in before the construction work began.

(3) For construction work that does not conform to the approved proposals, the enforcement notice must require the developer—

- (a) to carry out work to ensure the drainage system complies with the approved proposals, or
- (b) to restore the construction area to the condition it was in before the construction work began.

(4) If a developer fails to comply with an enforcement notice, the approving body—

- (a) may take the steps specified in the enforcement notice or authorise another person to take the steps, and
- (b) may require the developer to pay expenses incurred under sub-paragraph (a), such expenses to be recoverable as a debt.

(5) The approving body or a person authorised under paragraph (4)(a) may at any reasonable time enter a construction area to take the steps specified in the enforcement notice.

## Stop notices

10.—(1) An approving body may give a notice (“a stop notice”) to a developer if—

- (a) the developer has appealed against an enforcement notice, and
- (b) the approving body thinks it is expedient that construction work on the land to which the enforcement notice relates should stop immediately.

(2) Caiff hysbysiad stop wahardd datblygwr rhag parhau â'r gwaith adeiladu a bennir yn yr hysbysiad hyd nes—

- (a) bod yr apêl yn erbyn yr hysbysiad gorfodi yn cael ei phenderfynu neu ei thynnu'n ôl, neu
- (b) bod y corff cymeradwyo—
  - (i) yn tynnu'r hysbysiad stop yn ôl, neu
  - (ii) yn cymryd camau gorfodi pellach.

(3) Rhaid i hysbysiad stop fod yn ysgrifenedig a rhaid iddo bennu—

- (a) y dyddiad y mae'n cael effaith,
- (b) ar ba seiliau y'i cyflwynwyd,
- (c) canlyniadau peidio â chydymffurfio ag ef, a

(d) yr hysbysiad gorfodi y mae'n ymwneud ag ef.

(4) Rhaid atodi copi o'r hysbysiad gorfodi i'r hysbysiad stop.

(5) Caiff corff cymeradwyo dynnu hysbysiad stop yn ôl ar unrhyw adeg drwy roi hysbysiad ysgrifenedig i ddatblygwr sy'n nodi'r rhesymau dros y penderfyniad i'w dynnu'n ôl.

### Cofrestr hysbysiadau

**11.**—(1) Rhaid i gorff cymeradwyo gadw cofrestr sy'n cynnwys gwybodaeth sy'n ymwneud â'r holl hysbysiadau stop dros dro, hysbysiadau gorfodi a hysbysiadau stop a roddir ganddo.

(2) Rhaid i'r gofrestr gynnwys yr wybodaeth a ragnodir at ddiben adran 188(1)(1) o Ddeddf 1990 a chan erthygl 30 o Orchymyn Cynllunio Gwlad a Thref (Gweithdrefn Rheoli Datblygu) (Cymru) 2012(2) ond gyda'r addasiadau a ddisgrifir ym mharagraff (3).

(3) Yr addasiadau yw—

- (a) mae unrhyw gyfeiriad at yr awdurdod i'w ddarllen fel cyfeiriad at y corff cymeradwyo;
- (b) mae unrhyw gyfeiriad at gyflwyno'r hysbysiad neu gopiâu o'r hysbysiad i'w ddarllen fel cyfeiriad at roi'r hysbysiad;
- (c) mae unrhyw gyfeiriad at dorri rheolaeth gynllunio i'w ddarllen fel cyfeiriad at dorri'r gofyniad i gael cymeradwyaeth;
- (d) mae unrhyw gyfeiriad at hysbysiad torri amod i'w ddarllen fel cyfeiriad at hysbysiad stop neu hysbysiad stop dros dro.

(2) A stop notice may prohibit a developer from continuing with the construction work specified in the notice until—

- (a) the appeal against the enforcement notice is determined or withdrawn, or
- (b) the approving body—
  - (i) withdraws the stop notice, or
  - (ii) takes further enforcement action.

(3) A stop notice must be in writing and must specify—

- (a) the date on which it takes effect,
- (b) the grounds on which it was served,
- (c) the consequences of not complying with it, and
- (d) the enforcement notice to which it relates.

(4) A copy of the enforcement notice must be annexed to the stop notice.

(5) An approving body may at any time withdraw a stop notice by giving written notice to a developer setting out reasons for the decision to withdraw it.

### Register of notices

**11.**—(1) An approving body must keep a register containing information relating to all temporary stop notices, enforcement notices and stop notices it gives.

(2) The register must contain the information prescribed for the purpose of section 188(1)(1) of the 1990 Act and by article 30 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012(2) but with the modifications described in paragraph (3).

(3) The modifications are—

- (a) any reference to the authority is to be read as a reference to the approving body;
- (b) any reference to service of the notice or copies of the notice is to be read as a reference to the giving of the notice;
- (c) any reference to a breach of planning control is to be read as a reference to a breach of the requirement for approval;
- (d) any reference to a breach of condition notice is to be read as a reference to a stop notice or temporary stop notice.

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(1) Diwygiwyd adran 188(1) gan baragraff 30(a) o Atodlen 7 a Rhan 1 o Atodlen 19 i Ddeddf Cynllunio a Digolledu 1991 (p. 34) a chan baragraff 24(5) o Atodlen 6 i Ddeddf Llywodraeth Leol (Cymru) 1994 (p. 19). Mae diwygiadau eraill nad ydynt yn berthnasol i'r Gorchymyn hwn.

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

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(1) Section 188(1) was amended by paragraph 30(a) of Schedule 7 and Part 1 of Schedule 19 to, the Planning and Compensation Act 1991 (c. 34) and by paragraph 24(5) of Schedule 6 to the Local Government (Wales) Act 1994 (c. 19). There are other amendments not relevant to this Order.

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

(4) Rhaid cofnodi'r wybodaeth ar y gofrestr cyn gynted ag y bo'n ymarferol, ond nid mwy na 2 wythnos ar ôl rhoi'r hysbysiad.

(5) Rhaid dileu cofnod sy'n ymwneud â hysbysiad o'r gofrestr os yw'r hysbysiad yn cael ei dynnu'n ôl neu os yw'n peidio â chael effaith.

## RHAN 4

### Apelau yn erbyn hysbysiadau gorfodi

#### Hawl apelio

**12.**—(1) Caiff datblygwr y rhoddir hysbysiad gorfodi iddo apelio drwy hysbysiad i Weinidogion Cymru yn erbyn y penderfyniad i'w roi.

(2) Seiliau'r apêl yw—

- (a) bod y penderfyniad yn seiliedig ar wall ffeithiol;
- (b) bod y penderfyniad yn anghywir mewn cyfraith;
- (c) bod y penderfyniad yn afresymol;
- (d) nad oes toriad o'r gofyniad i gael cymeradwyaeth.

(3) Mae hysbysiad gorfodi yn cael ei atal dros dro hyd nes y caiff apêl ei phenderfynu neu ei thynnu'n ôl.

#### Terfyn amser ar gyfer gwneud apêl

**13.** Rhaid cyflwyno apêl o fewn y cyfnod o 4 wythnos sy'n dechrau â'r diwrnod y rhoddir hysbysiad gorfodi i ddatblygwr.

#### Gwneud apêl

**14.**—(1) Rhaid i hysbysiad apêl yn erbyn hysbysiad gorfodi—

- (a) bod yn ysgrifenedig, ar ffurflen a gafwyd oddi wrth Weinidogion Cymru,
- (b) datgan seiliau'r apêl,
- (c) datgan y ffeithiau y bydd yr apelydd yn dibynnu arnynt i ategu pob un o'r seiliau hynny ac unrhyw fanylion eraill am yr achos y mae'r apelydd yn bwriadu ei gyflwyno mewn perthynas â'r apêl, a
- (d) cynnwys enw, cyfeiriad (gan gynnwys unrhyw gyfeiriad e-bost) a rhif ffôn yr apelydd ac unrhyw asiant sy'n gweithredu ar ran yr apelydd.

(4) The information must be entered on the register as soon as is practicable but not more than 2 weeks after a notice is given.

(5) An entry relating to a notice must be removed from the register if the notice is withdrawn or ceases to have effect.

## PART 4

### Appeals against enforcement notices

#### Right of appeal

**12.**—(1) A developer who is given an enforcement notice may by notice appeal to the Welsh Ministers against the decision to give it.

(2) The grounds of appeal are that—

- (a) the decision was based on an error of fact;
- (b) the decision was wrong in law;
- (c) the decision was unreasonable;
- (d) there is no breach of the requirement for approval.

(3) An enforcement notice is suspended until an appeal is determined or withdrawn.

#### Time limit for making an appeal

**13.** An appeal must be made within the period of 4 weeks beginning with the day on which a developer is given an enforcement notice.

#### Making an appeal

**14.**—(1) Notice of an appeal against an enforcement notice must—

- (a) be in writing, on a form obtained from the Welsh Ministers,
- (b) state the grounds of appeal,
- (c) state the facts on which the appellant will rely in support of each of those grounds and any other particulars of the case the appellant intends to put forward in relation to the appeal, and
- (d) include the name, address (including any email address) and telephone number of the appellant and any agent acting for the appellant.

(2) Rhaid anfon yr hysbysiad at Weinidogion Cymru gyda'r canlynol—

- (a) datganiad ynghylch pa un a yw'r apelydd yn dymuno i'r apêl gael ei hymdrin drwy sylwadau ysgrifenedig, drwy wrandawriad neu drwy ymchwiliad,
- (b) copi o'r hysbysiad gorfodi, ac
- (c) copi o unrhyw hysbysiad stop neu hysbysiad stop dros dro cysylltiedig.

(3) Rhaid i ddatblygwr sy'n anfon hysbysiad apêl at Weinidogion Cymru, ar yr un pryd, anfon copi o'r hysbysiad apêl a'r dogfennau sy'n mynd gyda'r hysbysiad apêl i'r corff cymeradwyo.

(4) Yn yr erthygl hon, ystyr “dogfennau sy'n mynd gyda” yw'r dogfennau a grybwyllir ym mharagraff (2).

(5) Caniateir i unrhyw hysbysiad neu ddogfen arall y mae'r erthygl hon yn ei gwneud yn ofynnol i'w hanfon neu i'w darparu gael eu hanfon drwy'r post neu gyfathrebiad electronig.

### Defnyddio cyfathrebiadau electronig

15.—(1) Mae paragraffau (2) i (6) o'r erthygl hon yn gymwys pan fo'r apelydd yn defnyddio cyfathrebiad electronig at y diben o gyflawni unrhyw ofyniad yn erthygl 14.

(2) Ystyrir bod y gofyniad wedi ei gyflawni pan fo'r hysbysiad neu'r ddogfen arall a drosglwyddir drwy gyfrwng y cyfathrebiad electronig—

- (a) yn un y gall y derbynydd gael mynediad iddo neu iddi,
- (b) yn ddarllenadwy ym mhob modd perthnasol, ac
- (c) yn ddigon parhaol fel bod modd cyfeirio ato neu ati yn nes ymlaen.

(3) Ym mharagraff (2), ystyr “yn ddarllenadwy ym mhob modd perthnasol” yw bod yr wybodaeth a gynhwysir yn yr hysbysiad neu'r ddogfen arall ar gael i'r derbynydd i'r un graddau â phe bai'r wybodaeth wedi ei hanfon neu ei rhoi drwy gyfrwng dogfen ar ffurf brintiedig.

(4) Os caiff y derbynydd y cyfathrebiad electronig y tu hwnt i'w oriau busnes, cymerir ei fod wedi ei gael ar y diwrnod gwaith nesaf.

(5) Mae gofyniad yn erthygl 14 y dylai unrhyw hysbysiad neu ddogfen arall fod yn ysgrifenedig wedi ei fodloni pan fo'r ddogfen honno'n bodloni'r meini prawf ym mharagraff (2), ac mae “ysgrifenedig” ac ymadroddion cytras i'w dehongli yn unol â hynny.

(2) The notice must be sent to the Welsh Ministers accompanied by—

- (a) a statement as to whether the appellant wishes to have the appeal dealt with by way of written representations, a hearing or an inquiry,
- (b) a copy of the enforcement notice, and
- (c) a copy of any related stop notice or temporary stop notice.

(3) A developer who sends a notice of appeal to the Welsh Ministers must, at the same time, send a copy of the notice of appeal and accompanying documents to the approving body.

(4) In this article, “accompanying documents” means the documents mentioned in paragraph (2).

(5) Any notice or other document required in this article to be sent or provided, may be sent by post or electronic communication.

### Use of electronic communications

15.—(1) Paragraphs (2) to (6) of this article apply where an electronic communication is used by an appellant for the purpose of fulfilling any requirement in article 14.

(2) The requirement is taken to be fulfilled where the notice or other document transmitted by means of the electronic communication is—

- (a) capable of being accessed by the recipient,
- (b) legible in all material respects, and
- (c) sufficiently permanent to be used for subsequent reference.

(3) In paragraph (2) “legible in all material respects” means that the information contained in the notice or other document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(4) Where the electronic communication is received by the recipient outside the recipient's business hours, it will be taken to have been received on the next working day.

(5) A requirement in article 14 that any notice or other document should be in writing is fulfilled where that document meets the criteria in paragraph (2) and “written” and cognate expressions are to be construed accordingly.

(6) Pan fo apelydd yn anfon unrhyw hysbysiad neu ddogfen arall at Weinidogion Cymru drwy ddefnyddio cyfathrebiadau electronig, cymerir eu bod wedi cytuno i'r hyn a ganlyn—

- (a) i ddefnyddio'r cyfathrebiadau hynny at yr holl ddibenion sy'n ymwneud â'r apêl y mae modd eu cyflawni drwy gyfrwng electronig;
- (b) mai cyfeiriad yr apelydd at ddiben cyfathrebiadau o'r fath yw'r cyfeiriad sydd wedi ei ymgorffori yn yr hysbysiad neu'r ddogfen arall, neu sydd fel arall wedi ei gysylltu yn rhesymegol â hwy;
- (c) y bydd cytundeb tybiedig yr apelydd o dan y paragraff hwn yn parhau hyd nes iddo hysbysu ei fod yn dymuno dirymu'r cytundeb yn unol ag erthygl 16.

### **Tynnu'n ôl y cydsyniad i ddefnyddio cyfathrebiadau electronig**

**16.**—(1) Pan na fo apelydd bellach yn fodlon derbyn y defnydd o gyfathrebiadau electronig at unrhyw ddiben o'r Gorchymyn hwn y mae modd ei gyflawni yn electronig, rhaid i'r apelydd roi hysbysiad ysgrifenedig sydd—

- (a) yn tynnu'n ôl unrhyw gyfeiriad yr hysbyswyd Gweinidogion Cymru neu gorff cymeradwyo amdano at y diben hwnnw, neu
- (b) yn dirymu unrhyw gytundeb a wnaed gyda Gweinidogion Cymru neu gyda chorff cymeradwyo at y diben hwnnw.

(2) Bydd y tynnu'n ôl neu'r dirymu o dan baragraff (1) yn derfynol ac yn cymryd effaith ar y diweddaraf o'r hyn a ganlyn—

- (a) y dyddiad a bennwyd gan yr apelydd yn yr hysbysiad, ond ni ddylai'r dyddiad hwnnw fod yn llai nag 1 wythnos ar ôl y dyddiad y rhoddir yr hysbysiad, neu
- (b) y dyddiad y daw'r cyfnod o 1 wythnos i ben gan ddechrau ar y dyddiad pan y rhoddir yr hysbysiad.

### **Y weithdrefn apelio**

**17.**—(1) Mae paragraffau (2) i (4) o'r erthygl hon yn gymwys pan fo Gweinidogion Cymru yn cael hysbysiad apêl dilys.

(6) Where an appellant sends any notice or other document to the Welsh Ministers using electronic communications, they will be taken to have agreed—

- (a) to the use of such communications for all purposes relating to the appeal which are capable of being carried out electronically;
- (b) that the appellant's address for the purpose of such communications is the address incorporated into or otherwise logically associated with, the notice or other document;
- (c) that the appellant's deemed agreement under this paragraph will subsist until the appellant gives notice in accordance with article 16, of a wish to revoke the agreement.

### **Withdrawal of consent to the use of electronic communications**

**16.**—(1) Where an appellant is no longer willing to accept the use of electronic communications for any purpose of this Order which is capable of being effected electronically, the appellant must give notice in writing—

- (a) withdrawing any address notified to the Welsh Ministers or to an approving body for that purpose, or
- (b) revoking any agreement entered into with the Welsh Ministers or with an approving body for that purpose.

(2) Withdrawal or revocation under paragraph (1) is final and takes effect on the later of—

- (a) the date specified by the appellant in the notice but that date must not be less than 1 week after the date on which the notice is given, or
- (b) the expiry of the period of 1 week beginning with the date on which the notice is given.

### **Procedure for appeals**

**17.**—(1) Paragraphs (2) to (4) of this article apply where the Welsh Ministers are in receipt of a valid notice of appeal.

(2) Mae adran 319B (pennu'r weithdrefn ar gyfer achosion penodol: Cymru) o Ddeddf 1990 a Rheoliadau Cynllunio Gwlad a Thref (Ceisiadau Atgyfeiriedig a Gweithdrefn Apelau) (Cymru) 2017(1) ("Rheoliadau 2017") yn gymwys i apêl o dan y Gorchymyn hwn gyda'r addasiadau a ddisgrifir ym mharagraff (3), fel pe bai'n apêl a gyflwynir o dan adran 174 (apêl yn erbyn hysbysiad gorfodi) o Ddeddf 1990.

(3) Yr addasiadau yw—

- (a) mae i unrhyw gyfeiriad at "apelydd" yr ystyr a roddir yn erthygl 2;
- (b) mae unrhyw gyfeiriad at "apêl" o dan adran 174 o Ddeddf 1990 i'w ddarllen fel cyfeiriad at apêl o dan y Gorchymyn hwn;
- (c) mae unrhyw gyfeiriad at "person penodedig" yn gyfeiriad at berson a benodwyd gan Weinidogion Cymru o dan y Gorchymyn hwn i adrodd i Weinidogion Cymru;
- (d) mae unrhyw gyfeiriad at "apêl gorfodi" i'w ddarllen fel cyfeiriad at apêl yn erbyn hysbysiad gorfodi o dan y Gorchymyn hwn;
- (e) mae unrhyw gyfeiriad at "hysbysiad gorfodi" o dan adran 172(1) o Ddeddf 1990 i'w ddarllen fel cyfeiriad at hysbysiad gorfodi o dan y Gorchymyn hwn;
- (f) mae cyfeiriad at "datganiad achos llawn" i'w ddarllen fel cyfeiriad at y datganiad yn erthygl 14(1)(c);
- (g) mae unrhyw gyfeiriad at "personau â buddiant" i'w ddarllen fel cyfeiriad at yr ymgynghoreion statudol a bennir ym mharagraff 11(3) o Atodlen 3;
- (h) mae unrhyw gyfeiriad at "awdurdod cynllunio lleol" i'w ddarllen fel cyfeiriad at y corff cymeradwyo a roddodd hysbysiad gorfodi o dan y Gorchymyn hwn.

(4) Yn yr erthygl hon, ystyr "hysbysiad apêl dilys" yw hysbysiad apêl—

- (a) sy'n cydymffurfio â gofynion erthygl 14(1),
- (b) a anfonir at Weinidogion Cymru—
  - (i) yn unol ag erthygl 14(2),
  - (ii) o fewn y cyfnod a bennir yn erthygl 13, ac
- (c) y mae'r apelydd yn ardystio ei fod wedi anfon copi i'r corff cymeradwyo yn unol ag erthygl 14(3).

(2) Section 319B (determination of procedure for certain proceedings: Wales) of the 1990 Act and the Town and Country Planning (Referred Applications and Appeals Procedure) (Wales) Regulations 2017(1) ("the 2017 Regulations") apply to an appeal under this Order with the modifications described in paragraph (3), as if it was an appeal brought under section 174 (appeal against enforcement notice) of the 1990 Act.

(3) The modifications are—

- (a) any reference to an "appellant" has the meaning given in article 2;
- (b) any reference to an "appeal" under section 174 of the 1990 Act is to be read as a reference to an appeal under this Order;
- (c) any reference to an "appointed person" is a reference to a person appointed by the Welsh Ministers under this Order to report to the Welsh Ministers;
- (d) any reference to an "enforcement appeal" is to be read as a reference to an appeal against an enforcement notice under this Order;
- (e) any reference to an "enforcement notice" under section 172(1) of the 1990 Act is to be read as a reference to an enforcement notice under this Order;
- (f) a reference to "full statement of case" is to be read as a reference to the statement in article 14(1)(c);
- (g) any reference to "interested persons" is to be read as a reference to the statutory consultees specified in paragraph 11(3) of Schedule 3;
- (h) any reference to a "local planning authority" is to be read as a reference to the approving body which gave an enforcement notice under this Order.

(4) In this article "valid notice of appeal" means a notice of appeal—

- (a) which complies with the requirements of article 14(1),
- (b) is sent to the Welsh Ministers—
  - (i) in accordance with article 14(2),
  - (ii) within the period specified in article 13, and
- (c) in relation to which the appellant certifies that a copy has been sent to the approving body in accordance with article 14(3).

## Penderfynu ar apêl

18.—(1) Mae apêl o dan y Gorchymyn hwn i'w phenderfynu gan Weinidogion Cymru.

(2) At ddibenion paragraff (1), caiff Gweinidogion Cymru benodi person (“y person penodedig”) i adrodd i Weinidogion Cymru.

## Pwerau Gweinidogion Cymru wrth benderfynu ar apêl

19. Wrth benderfynu ar apêl yn erbyn hysbysiad gorfodi, caiff Gweinidogion Cymru—

- (a) penderfynu bod yr hysbysiad i beidio â chael effaith, neu
- (b) cadarnhau neu amrywio'r hysbysiad.

## Tystiolaeth a chostau

20.—(1) Mae is-adrannau (2) a (3) o adran 250 o Ddeddf Llywodraeth Leol 1972(1) (ymchwiliadau lleol: tystiolaeth a chostau) yn gymwys gyda'r addasiadau a ddisgrifir ym mharagraff (2) i ymchwiliad o dan y Gorchymyn hwn fel y maent yn gymwys i ymchwiliadau lleol o dan yr adran honno.

(2) Yr addasiadau yw—

- (a) mae unrhyw gyfeiriad at y person a benodir i gynnal yr ymchwiliad i'w ddarllen fel cyfeiriad at y person a benodir gan Weinidogion Cymru o dan erthygl 18(2);
- (b) mae unrhyw gyfeiriad at awdurdod lleol i'w ddarllen fel cyfeiriad at gorff cymeradwyo.

(3) Mae adran 322C o Ddeddf 1990(2) (costau: Cymru) yn gymwys mewn perthynas â gwrandawriad neu ymchwiliad o dan y Gorchymyn hwn fel y mae'n gymwys mewn perthynas â gwrandawriad neu ymchwiliad lleol y cyfeirir ato yn yr adran honno.

(4) Yn ddarostyngedig i baragraff (3), rhaid i gostau gwrandawriad neu ymchwiliad a gynhelir o dan y Gorchymyn hwn gael eu talu gan Weinidogion Cymru.

## Determination of an appeal

18.—(1) An appeal under this Order is to be determined by the Welsh Ministers.

(2) For the purposes of paragraph (1), the Welsh Ministers may appoint a person (“the appointed person”) to report to the Welsh Ministers.

## Powers of the Welsh Ministers when determining an appeal

19. When determining an appeal against an enforcement notice, the Welsh Ministers may—

- (a) determine that the notice is to cease to have effect, or
- (b) confirm or vary the notice.

## Evidence and costs

20.—(1) Subsections (2) and (3) of section 250 of the Local Government Act 1972(1) (local inquiries: evidence and costs) apply with the modifications described in paragraph (2) to an inquiry under this Order as they apply to local inquiries under that section.

(2) The modifications are—

- (a) any reference to the person appointed to hold the inquiry is to be read as a reference to the person appointed by the Welsh Ministers under article 18(2);
- (b) any reference to a local authority is to be read as a reference to an approving body.

(3) Section 322C of the 1990 Act(2) (costs: Wales) applies in relation to a hearing or inquiry under this Order as it applies in relation to a hearing or local inquiry referred to in that section.

(4) Subject to paragraph (3), the costs of a hearing or inquiry held under this Order must be defrayed by the Welsh Ministers.

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(1) 1972 p. 70. Diwygiwyd adran 250 gan adrannau 37, 38 a 46 o Ddeddf Cyfiawnder Troseddol 1982 (p. 48); adran 49(2) o Ddeddf Tai a Chynllunio 1986 (p. 63) ac Atodlen 12 iddi a chan y Ddeddf Cyfraith Statud (Diddymiadau) 1989 (p. 43).

(2) Mewnosodwyd adran 322C gan adran 49 o Ddeddf Cynllunio (Cymru) 2015 (decc 4).

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(1) 1972 c. 70. Section 250 has been amended by sections 37, 38 and 46 of the Criminal Justice Act 1982 (c. 48); section 49(2) of and Schedule 12 to the Housing and Planning Act 1986 (c. 63) and by the Statute Law (Repeals) Act 1989 (c. 43).

(2) Section 322C was inserted by section 49 of the Planning (Wales) Act 2015 (anaw 4).



## RHAN 5

### Troseddau

#### Y drosedd o fethu â chydymffurfio â hysbysiad

**21.**—(1) Mae person sy'n methu â chydymffurfio â hysbysiad stop dros dro, hysbysiad gorfodi neu hysbysiad stop yn euog o drosedd, ac yn agored—

- (a) ar euogfarn ddiannod, i ddirwy nad yw'n fwy nag £20,000, neu
- (b) ar euogfarn ar ddiad, i ddirwy.

(2) Wrth benderfynu ar swm y ddirwy, rhaid i'r llys roi sylw yn benodol i unrhyw fantais ariannol sydd wedi cronni, neu yr ymddengys ei bod wedi cronni, i'r person sy'n cael euogfarn o ganlyniad i'r drosedd.

#### Y drosedd o rwystro

**22.** Mae person sy'n rhwystro yn fwiadol person awdurdodedig sy'n arfer pwerau mynediad—

- (a) yn euog o drosedd, a
- (b) yn agored, ar euogfarn ddiannod, i ddirwy nad yw'n fwy na lefel 3 ar y raddfa safonol.

#### Troseddau gan gyrff corfforaethol

**23.**—(1) Os profir bod trosedd o dan y Gorchymyn hwn a gyflawnwyd gan gorff corfforaethol—

- (a) wedi ei chyflawni gyda chydysyniad neu ymoddefiad swyddog, neu
- (b) i'w phriodoli i unrhyw esgeulustod ar ran swyddog—

bydd y swyddog, yn ogystal â'r corff corfforaethol, yn euog o'r drosedd a bydd yn agored i gael ei erlyn a'i gosbi yn unol â hynny.

(2) Ym mharagraff (1), ystyr "swyddog", mewn perthynas â chorff corfforaethol, yw—

- (a) cyfarwyddwr, rheolwr, ysgrifennydd neu swyddog arall tebyg i'r corff, neu
- (b) person sy'n honni ei fod yn gweithredu yn rhinwedd unrhyw swydd o'r fath.

(3) Os rheolir materion corff corfforaethol gan ei aelodau, mae paragraff (1) yn gymwys mewn perthynas â gweithredoedd a diffyg gweithredoedd aelod mewn cysylltiad â swyddogaethau rheoli'r aelod fel y mae'n gymwys i swyddog corff corfforaethol.

## PART 5

### Offences

#### Offence of failure to comply with a notice

**21.**—(1) A person who fails to comply with a temporary stop notice, enforcement notice or stop notice is guilty of an offence, and is liable—

- (a) on summary conviction, to a fine not exceeding £20,000, or
- (b) on conviction on indictment, to a fine.

(2) In determining the amount of the fine, the court must have regard in particular to any financial benefit which has accrued, or has appeared to accrue, to the person convicted in consequence of the offence.

#### Offence of obstruction

**22.** A person who wilfully obstructs an authorised person who is exercising powers of entry—

- (a) is guilty of an offence, and
- (b) is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

#### Offences by bodies corporate

**23.**—(1) If an offence under this Order committed by a body corporate is proved—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on the part of an officer—

the officer, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) In paragraph (1), "officer" in relation to a body corporate, means—

- (a) a director, manager, secretary or other similar officer of the body, or
- (b) a person purporting to act in any such capacity.

(3) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to an officer of a body corporate.

## Troseddau gan bartneriaethau a chymdeithasau anghorfforedig

24.—(1) Rhaid i achos ar gyfer trosedd o dan y Gorchymyn hwn yr honnir ei bod wedi ei chyflawni gan bartneriaeth neu gymdeithas anghorfforedig gael ei dwyn yn erbyn y bartneriaeth neu'r gymdeithas yn enw'r bartneriaeth neu'r gymdeithas.

(2) At ddibenion achosion o'r fath—

(a) mae rheolau'r llys sy'n ymwneud â chyflwyno dogfennau yn cael effaith fel pe bai'r bartneriaeth neu'r gymdeithas anghorfforedig yn gorff corfforaethol, a

(b) mae'r darpariaethau a ganlyn yn gymwys fel y maent yn gymwys mewn perthynas â chorff corfforaethol—

(i) adran 33 o Ddeddf Cyfiawnder Troseddol 1925(1);

(ii) Atodlen 3 i Ddeddf Llysoedd Ynadon 1980(2).

(3) Mae dirwy a osodir ar bartneriaeth neu gymdeithas anghorfforedig ar euogfarn am drosedd o dan y Gorchymyn hwn i'w thalu o gronfeydd y bartneriaeth neu'r gymdeithas.

(4) Os profir bod trosedd o dan y Gorchymyn hwn a gyflawnwyd gan bartneriaeth—

(a) wedi ei chyflawni gyda chydysyniad neu ymoddefiad partner, neu

(b) i'w phriodoli i unrhyw esgeulustod ar ran partner—

mae'r partner, yn ogystal â'r bartneriaeth, yn euog o'r drosedd ac yn agored i gael ei erlyn a'i gosbi yn unol â hynny.

(5) Ym mharagraff (4), mae "partner" yn cynnwys person sy'n honni ei fod yn gweithredu fel partner.

(6) Os profir bod trosedd o dan y Gorchymyn hwn a gyflawnwyd gan gymdeithas anghorfforedig (ac eithrio partneriaeth)—

(a) wedi ei chyflawni gyda chydysyniad neu ymoddefiad un o swyddogion y gymdeithas, neu

## Offences by partnerships and unincorporated associations

24.—(1) Proceedings for an offence under this Order alleged to have been committed by a partnership or an unincorporated association must be brought against the partnership or association in the name of the partnership or association.

(2) For the purposes of such proceedings—

(a) rules of court relating to the service of documents have effect as if the partnership or unincorporated association were a body corporate, and

(b) the following provisions apply as they apply in relation to a body corporate—

(i) section 33 of the Criminal Justice Act 1925(1);

(ii) Schedule 3 to the Magistrates' Courts Act 1980(2).

(3) A fine imposed on a partnership or unincorporated association on its conviction of an offence under this Order is to be paid out of the funds of the partnership or association.

(4) If an offence under this Order committed by a partnership is proved—

(a) to have been committed with the consent or connivance of a partner, or

(b) to be attributable to any neglect on the part of a partner—

the partner, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) In paragraph (4), "partner" includes a person purporting to act as a partner.

(6) If an offence under this Order committed by an unincorporated association (other than a partnership) is proved—

(a) to have been committed with the consent or connivance of an officer of the association, or

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(1) 1925 p. 86. Diwygiwyd adran 33 gan Atodlen 6 i Ddeddf Llysoedd Ynadon 1952 (p. 55); paragraff 19 o Atodlen 8 i Ddeddf Llysoedd 1971 (p. 23) ac Atodlen 10 i Ddeddf Llysoedd 2003 (p. 39).

(2) 1980 p. 43. Diwygiwyd Atodlen 3 gan Atodlen 13 i Ddeddf Cyfiawnder Troseddol 1991 (p. 43) a pharagraffau 51(13)(a) a (b) o Atodlen 3 i Ddeddf Cyfiawnder Troseddol 2003 (p. 44).

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(1) 1925 c. 86. Section 33 was amended by Schedule 6 to the Magistrates Courts Act 1952 (c. 55); paragraph 19 of Schedule 8 to the Courts Act 1971 (c. 23) and Schedule 10 to the Courts Act 2003 (c. 39).

(2) 1980 c. 43. Schedule 3 was amended by Schedule 13 to the Criminal Justice Act 1991 (c. 43) and paragraphs 51(13)(a) and (b) of Schedule 3 to the Criminal Justice Act 2003 (c. 44).

(b) i'w phriodoli i unrhyw esgeulustod ar ran swyddog o'r fath—

mae'r swyddog, yn ogystal â'r gymdeithas, yn euog o'r drosedd a bydd yn agored i gael ei erlyn a'i gosbi yn unol â hynny.

(7) Ym mharagraff (6), ystyr "swyddog", mewn perthynas â chymdeithas anghorfforedig, yw—

- (a) un o swyddogion y gymdeithas neu aelod o'i chorff llywodraethu, neu
- (b) person sy'n honni ei fod yn gweithredu yn rhinwedd swydd o'r fath.

(b) to be attributable to any neglect on the part of such an officer—

the officer, as well as the association, is guilty of the offence and liable to be proceeded against and punished accordingly.

(7) In paragraph (6), "officer" in relation to an unincorporated association, means—

- (a) an officer of the association or a member of its governing body, or
- (b) a person purporting to act in such a capacity.

*Hannah Blythyn*

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

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

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