OFFERYNNAU STATUDOL CYMRU

2019 Rhif 331 (Cy. 81)

DIOGELU'R AMGYLCHEDD, CYMRU

Rheoliadau Dyletswydd Gofal o ran Gwastraff Cartref (Cosbau Penodedig) (Cymru) 2019

Gwnaed - - - - 20 Chwefror 2019

Yn dod i rym yn unol â rheoliad 1(2)

Mae Gweinidogion Cymru wedi eu dynodi at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 mewn perthynas ag atal, lleihau a rheoli gwastraff(**1**) ac yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddir gan yr adran honno(**2**).

Yn unol ag adran 59(3) o Ddeddf Llywodraeth Cymru 2006(**3**), gosodwyd drafft o'r Rheoliadau hyn gerbron Cynulliad Cenedlaethol Cymru ac fe'i cymeradwywyd ganddo drwy benderfyniad.

Enwi, cychwyn a rhychwant

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Dyletswydd Gofal o ran Gwastraff Cartref (Cosbau Penodedig) (Cymru) 2019.

(2) Daw'r Rheoliadau hyn i rym drannoeth y diwrnod y'i gwneir.

(3) Mae'r Rheoliadau hyn yn rhychwantu Cymru a Lloegr.

Diwygio Deddf Diogelu'r Amgylchedd 1990

2.—(1) Mae Rhan II o Ddeddf Diogelu'r Amgylchedd 1990 (gwastraff ar dir)(**4**) wedi ei diwygio fel a ganlyn.

(2) Ar ôl adran 34ZA (hysbysiadau cosb benodedig: troseddau o dan adran 34(6) sy'n ymwneud ag adran 34(2A): Lloegr)(**5**) mewnosoder—

(**1**) O.S. 2010/1552. Yn rhinwedd adran 59(2) o Ddeddf Llywodraeth Cymru 2006 (p. 32) caiff Gweinidogion Cymru arfer y pŵer a roddir gan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 (p. 68) mewn perthynas ag unrhyw fater, neu at unrhyw ddiben, os ydynt wedi eu dynodi mewn perthynas â'r mater hwnnw, neu at y diben hwnnw.

(**2**) 1972 p. 68 . Diwygiwyd adran 2(2) gan Ran 1 o'r Atodlen i Ddeddf yr Undeb Ewropeaidd (Diwygio) 2008 (p. 7) .

(**3**) 2006 p. 32 . Diwygwyd adran 59(3) gan adran 20(2)(c) o Ddeddf Cymru 2017 (p. 4) .

(**4**) 1990 p. 43 .

(**5**) Mewnosodwyd adran 34ZA gan reoliad 3 o O.S. 2018/1227.

"**Fixed penalty notices: offences under section 34(6) relating to section 34(2A): Wales**

34ZB.—(1) This section applies where it appears to an enforcement authority in Wales that a person has failed to comply with the duty relating to the transfer of household waste in section 34(2A)(**6**) in Wales.

(2) The authority may give to that person a notice offering the opportunity of discharging any liability to conviction for an offence under section 34(6) by payment of a fixed penalty.

(3) An authority may not give a person a notice under subsection (2) if such a notice has already been given to that person (whether by the same or another authority) in respect of the same offence.

(4) Where a waste collection authority (A) gives a notice to a person under subsection (2) in relation to a failure to comply with the duty in section 34(2A) that took place in the area of another waste collection authority (B), A must, at the time of giving the notice, give a copy of the notice to B.

(5) Where the Natural Resources Body for Wales gives a notice to a person under subsection (2), the Body must, at the time of giving the notice, give a copy of the notice to the waste collection authority in whose area the failure to comply with the duty in section 34(2A) took place.

(6) Where a person is given a notice under subsection (2) in respect of an offence—

(a) no proceedings may be instituted for that offence before the end of the period of 14 days following the date of the notice; and

(b) the person may not be convicted of the offence if the fixed penalty is paid before the end of that period.

(7) The fixed penalty payable to an enforcement authority under this section is £300.

(8) An enforcement authority may make provision in a notice given under subsection (2) for treating the fixed penalty as having been paid if a lesser amount of £150 is paid before the end of the period of 10 days following the date of the notice.

(9) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(10) A notice under this section must also—

(a) state the period during which, by virtue of subsection (6)(a), proceedings will not be instituted for the offence under section 34(6);

(b) state the date on or before which, by virtue of subsection (6)(b), payment of the fixed penalty must be made in order to discharge any liability to conviction for the offence;

(c) state the amount of the fixed penalty;

(d) if the enforcement authority makes provision under subsection (8)—

(i) state the lesser amount, the payment of which is treated, by virtue of that subsection, as payment of the fixed penalty, and

(ii) state the date on or before which payment of the lesser amount must be made for it to be so treated;

(e) state the permissible methods of payment;

(f) state the person to whom, and the address at which, payment may be made;

(g) explain that—

(**6**) Diwygiwyd adran 34 gan O.S. 2005/2900, 2006/123 (Cy. 16), 2007/3538, 2011/988. Mae offerynnau diwygio eraill ond nid oes yr un ohonynt yn berthnasol.

(i) the notice contains an offer to discharge liability to conviction for the offence by payment of a fixed penalty and that the person is not required to accept that offer, and

(ii) the person is entitled to make representations to the authority about the allegations contained in the notice;

(h) state the address to which the person may send any representations;

(i) explain that, by virtue of subsection (3), an authority may not give a person a notice under this section if such a notice has already been given to that person (whether by the same or another authority) in respect of the same offence;

(j) state the other enforcement authorities to which the authority has sent a copy of the notice in accordance with subsections (4) and (5).

(11) An enforcement authority may authorise in writing a person (an "authorised officer") to give a notice under this section on its behalf.

(12) Where an authorised officer proposes to give a person a notice under subsection (2), the officer may require that person to give their name and address.

(13) A person commits an offence if the person—

(a) fails to give a name or address when required to do so under subsection (12), or

(b) gives a false or inaccurate name or address in response to a requirement under that subsection.

(14) A person guilty of an offence under subsection (13) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(15) In any proceedings, a certificate which—

(a) purports to be signed by or on behalf of the chief finance officer of an enforcement authority to whom a fixed penalty is payable pursuant to a notice under this section, and

(b) states that payment of a fixed penalty was or was not received by a date specified in the certificate,

is evidence of the facts stated.

(16) In this section—

"chief finance officer", in relation to an enforcement authority, means the person having responsibility for the financial affairs of the authority;

"enforcement authority in Wales" means the Natural Resources Body for Wales or a waste collection authority in Wales."

(3) Yn adran 73A (defnyddio derbyniadau cosb benodedig)(**7**)—

(a) yn is-adran (1A), ar ôl "section" mewnosoder "34ZB or";

(b) yn is-adran (2), ar ôl "34ZA," mewnosoder "34ZB,".

(**7**) Mewnosodwyd adran 73A gan adran 52 o Ddeddf Cymdogaethau Glân a'r Amgylchedd 2005 (p. 16), ac fe'i diwygiwyd gan O.S. 2013/755 (Cy. 90), 2016/334, 2017/1024 (Cy. 262) a 2018/1227. Mae diwygiadau eraill ond nid oes yr un ohonynt yn berthnasol.

Hannah Blythyn
Y Dirprwy Weinidog Tai a Llywodraeth Leol, o dan awdurdod y Gweinidog Tai a Llywodraeth Leol, un o Weinidogion Cymru

20 Chwefror 2019

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn mewnosod adran 34ZB newydd yn Rhan II (gwastraff ar dir) o Ddeddf Diogelu'r Amgylchedd 1990 (p. 43) ("y Ddeddf").

Mae adran 34(2A) o'r Ddeddf yn nodi'r ddyletswydd gofal sy'n gymwys i feddianwyr eiddo domestig mewn perthynas â gwastraff cartref a gynhyrchir yn eu heiddo. Mae'r ddyletswydd honno yn ei gwneud yn ofynnol i feddianwyr eiddo domestig yng Nghymru gymryd yr holl gamau sydd ar gael iddynt ac sy'n rhesymol yn yr amgylchiadau i sicrhau bod y meddiannydd ond yn trosglwyddo ei wastraff cartref i berson a awdurdodir i'w dderbyn.

Mae adran 34(6) o'r Ddeddf yn darparu bod methiant i gydymffurfio â'r ddyletswydd a osodir gan adran 34(2A) yn drosedd.

Mae'r adran 34ZB newydd yn rhoi pŵer i awdurdodau gwastraff yng Nghymru roi hysbysiad sy'n cynnig cyfle i berson ryddhau ei hun rhag unrhyw atebolrwydd i euogfarn am y drosedd o fethu â chydymffurfio â'r ddyletswydd a osodir gan adran 34(2A) drwy dalu cosb benodedig.

Wrth ddyroddi hysbysiad, caiff awdurdod yng Nghymru gynnig disgownt am dalu cosb benodedig yn gynnar.

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