



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2020 Rhif 1303 (Cy. 288)

2020 No. 1303 (W. 288)

**IECHYD PLANHIGION,
CYMRU**

PLANT HEALTH, WALES

Rheoliadau Rheolaethau
Swyddogol (Iechyd Planhigion ac
Organeddau a Addaswyd yn Enetig)
(Cymru) (Diwygio) (Rhif 2) 2020

The Official Controls (Plant Health
and Genetically Modified
Organisms) (Wales) (Amendment)
(No. 2) Regulations 2020

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Rheolaethau Swyddogol (Iechyd Planhigion ac Organeddau a Addaswyd yn Enetig) (Cymru) 2020 (O.S. 2020/206) (Cy. 48) ("Rheoliadau 2020"), sy'n rhoi effaith i—

These Regulations amend the Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020 (S.I. 2020/206) (W. 48) ("the 2020 Regulations"), that give effect to—

- (a) Rheoliad (EU) 2016/2031 Senedd Ewrop a'r Cyngor ynghylch mesurau i ddiogelu rhag plâu planhigion (OJ Rhif L 317, 23.11.2016, t. 4), a
- (b) Rheoliad (EU) 2017/625 Senedd Ewrop a'r Cyngor ynghylch rheolaethau swyddogol a gweithgareddau swyddogol eraill a gyflawnir i sicrhau y cymhwysir y gyfraith bwyd a bwyd anifeiliaid, rheolau ar iechyd a lles anifeiliaid, iechyd planhigion a chynhyrchion i ddiogelu planhigion, i'r graddau y mae'n gymwys i'r rheolau y cyfeirir atynt yn Erthygl 1(2)(g) (OJ Rhif L 95, 7.4.2017, t. 1).

- (a) Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants (OJ No. L 317, 23.11.2016, p. 4), and
- (b) Regulation (EU) 2017/625 of the European Parliament and of the Council on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, in so far as it applies to the rules referred to in Article 1(2)(g) (OJ No. L 95, 7.4.2017, p. 1).

Mae'r Rheoliadau hyn yn gwneud darpariaeth ar gyfer sancsiynau sifil mewn cysylltiad â throeddau a nodir yn Rhan 11 o Reoliadau 2020. Mae'r gyfres o sancsiynau sydd ar gael i'r awdurdod priodol (Gweinidogion Cymru yw'r "awdurdod priodol" yng Nghymru) yn cynnwys hysbysiadau cydymffurfio, hysbysiadau adfer a hysbysiadau stop, cosbau ariannol amrywiadwy a chosbau ariannol penodedig, yn ogystal â'r gallu i dderbyn ymgymeriadau trydydd parti ac ymgymeriadau gorfodi.

These Regulations make provision for civil sanctions in respect of offences set out in Part 11 of the 2020 Regulations. The suite of sanctions available to the appropriate authority (the Welsh Ministers are the "appropriate authority" in Wales) consists of compliance, restoration and stop notices, fixed and variable monetary penalties, as well as the ability to accept third party undertakings and enforcement undertakings.

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

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

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**IECHYD PLANHIGION,
CYMRU**

PLANT HEALTH, WALES

Rheoliadau Rheolaethau
Swyddogol (Iechyd Planhigion ac
Organeddau a Addaswyd yn Enetig)
(Cymru) (Diwygio) (Rhif 2) 2020

The Official Controls (Plant Health
and Genetically Modified
Organisms) (Wales) (Amendment)
(No. 2) Regulations 2020

Gwnaed 16 Tachwedd 2020

Made 16 November 2020

Gosodwyd gerbron *Senedd*
Cymru 18 Tachwedd 2020

Laid before Senedd Cymru 18 November 2020

Yn dod i rym 15 Rhagfyr 2020

Coming into force 15 December 2020

Mae Gweinidogion Cymru wedi eu dynodi at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(1) mewn perthynas â'r polisi amaethyddol cyffredin(2).

The Welsh Ministers are designated for the purposes of section 2(2) of the European Communities Act 1972(1) in relation to the common agricultural policy(2).

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddir gan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972.

The Welsh Ministers make these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972.

- (1) 1972 p. 68. Diddymwyd Deddf y Cymunedau Ewropeaidd 1972 ("Deddf 1972") gan adran 1 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 (p. 16) ("Deddf 2018") gydag effaith o'r diwrnod ymadael. Mae "exit day" wedi ei ddiffinio yn adran 20 o Ddeddf 2018 fel 31 Ionawr 2020 am 11pm. Er gwaethaf y diddymiad hwnnw mae Deddf 1972 yn parhau i gael effaith gydag addasiadau tan ddiwrnod cwblhau'r cyfnod gweithredu, yn rhinwedd adran 1A o Ddeddf 2018. Mewnosodwyd adran 1A gan adran 1 o Ddeddf yr Undeb Ewropeaidd (Y Cytundeb Ymadael) 2020 (p. 1) ("Deddf 2020"). Mae "IP completion day" wedi ei ddiffinio yn adran 1A fel 31 Rhagfyr 2020 am 11pm (yr ystyr a roddir yn adran 39 o Ddeddf 2020). Diwygiwyd adran 2(2) o Ddeddf 1972 yn flaenorol gan adran 27(1) o Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006 (p. 51) a chan adran 3(3) o Ddeddf yr Undeb Ewropeaidd (Diwygio) 2008 (p. 7), a rhan 1 o'r Atodlen iddi.
- (2) O.S. 2010/2690; sydd wedi ei ddirymu'n rhagolygol gan O.S. 2018/1011 o ddiwrnod cwblhau'r cyfnod gweithredu.

- (1) 1972 c. 68. The European Communities Act 1972 ("the 1972 Act") was repealed by section 1 of the European Union (Withdrawal) Act 2018 (c. 16) ("the 2018 Act") with effect from exit day. "Exit day" is defined in section 20 of the 2018 Act as 31 January 2020 at 11pm. Despite that repeal the 1972 Act continues to have effect with modifications until IP completion day, by virtue of section 1A of the 2018 Act. Section 1A was inserted by section 1 of the European Union (Withdrawal Agreement) Act 2020 (c. 1) ("the 2020 Act"). "IP completion day" is defined in section 1A as 31 December 2020 at 11pm (the meaning given in section 39 of the 2020 Act). Section 2(2) of the 1972 Act was previously amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).
- (2) S.I. 2010/2690; which is prospectively revoked by S.I. 2018/1011 from IP completion day.

Enwi a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Rheolaethau Swyddogol (Iechyd Planhigion ac Organeddau a Addaswyd yn Enetig) (Cymru) (Diwygio) (Rhif 2) 2020 a deuant i rym ar 15 Rhagfyr 2020.

Diwygio Rheoliadau Rheolaethau Swyddogol (Iechyd Planhigion ac Organeddau a Addaswyd yn Enetig) (Cymru) 2020

2.—(1) Mae Rheoliadau Rheolaethau Swyddogol (Iechyd Planhigion ac Organeddau a Addaswyd yn Enetig) (Cymru) 2020(1) wedi eu diwygio fel a ganlyn.

(2) Yn lle rheoliad 31(3) rhodder—

“(3) Nid yw paragraff (1) yn gymwys—

(a) i unrhyw fangre a ddefnyddir yn gyfan gwbl neu'n bennaf fel annedd breifat oni bai bod 24 awr o rybudd wedi ei roi i'r meddiannydd, neu

(b) mewn perthynas ag unrhyw hysbysiad a roddir o dan Atodlen 4A.”

(3) Yn rheoliad 36(1), ar y diwedd mewnosoder “neu Atodlen 4A”.

(4) Yn rheoliad 37—

(a) ym mharagraff (3), ar ôl “arolygydd iechyd planhigion” mewnosoder “neu'r awdurdod priodol”;

(b) ym mharagraff (6), yn y diffiniad o “hysbysiad”, ar ôl “arolygydd iechyd planhigion” mewnosoder “neu'r awdurdod priodol”.

(5) Yn rheoliad 39—

(a) daw'r paragraff sydd heb ei rifo yn baragraff (1) o'r rheoliad hwnnw;

(b) ar ôl paragraff (1) fel y'i hailrifwyd, mewnosoder—

“(2) Nid yw paragraff (1)(a) yn gymwys mewn perthynas ag unrhyw hysbysiad a gyflwynir o dan Atodlen 4A.”

(6) Yn rheoliad 46(1), ar ôl “y Rhan hon” mewnosoder “neu baragraff 22 o Atodlen 4A (methu â chydymffurfio ag hysbysiad stop)”.

(7) Yn rheoliad 47(1), ar ôl “y Rhan hon” mewnosoder “neu baragraff 22 o Atodlen 4A (methu â chydymffurfio ag hysbysiad stop)”.

(8) Ar ôl rheoliad 48 mewnosoder—

Title and commencement

1. The title of these Regulations is the Official Controls (Plant Health and Genetically Modified Organisms) (Wales) (Amendment) (No. 2) Regulations 2020 and they come into force on 15 December 2020.

Amendment of the Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020

2.—(1) The Official Controls (Plant Health and Genetically Modified Organisms) (Wales) Regulations 2020(1) are amended as follows.

(2) For regulation 31(3) substitute—

“(3) Paragraph (1) does not apply—

(a) to any premises which are used wholly or mainly as a private dwelling unless 24 hours' notice has been given to the occupier, or

(b) in relation to any notice served under Schedule 4A.”

(3) In regulation 36(1), at the end insert “or Schedule 4A”.

(4) In regulation 37—

(a) in paragraph (3), after “plant health inspector” insert “or the appropriate authority”;

(b) in paragraph (6), in the definition of “notice”, after “plant health inspector” insert “or the appropriate authority”.

(5) In regulation 39—

(a) the unnumbered paragraph becomes paragraph (1) of that regulation;

(b) after paragraph (1) as renumbered, insert—

“(2) Paragraph (1)(a) does not apply in relation to any notice served under Schedule 4A.”

(6) In regulation 46(1), after “this Part” insert “or paragraph 22 of Schedule 4A (failure to comply with a stop notice)”.

(7) In regulation 47(1), after “this Part” insert “or paragraph 22 of Schedule 4A (failure to comply with a stop notice)”.

(8) After regulation 48 insert—

“RHAN 11A
Sancsiynau Sifil

Sancsiynau sifil

48A. Mae Atodlen 4A (sy'n darparu ar gyfer sancsiynau sifil) yn cael effaith.”

(9) Ar ôl Atodlen 4, mewnosoder yr Atodlen a gynhwysir yn yr Atodlen i'r Rheoliadau hyn.

“PART 11A
Civil Sanctions

Civil sanctions

48A. Schedule 4A (which provides for civil sanctions) has effect.”

(9) After Schedule 4, insert the Schedule contained in the Schedule to these Regulations.

Lesley Griffiths

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig,
un o Weinidogion Cymru
16 Tachwedd 2020

Minister for Environment, Energy and Rural Affairs,
one of the Welsh Ministers
16 November 2020

YR ATODLEN Rheoliad 2(9)
Mewnosod Atodlen 4A newydd

“ATODLEN 4A Rheoliad 48A
Saneciynau sifil

RHAN 1

Y pŵer i osod saneciynau sifil

Hysbysiad cydymffurfio

1.—(1) Mae'r paragraff hwn yn gymwys pan fo'r awdurdod priodol wedi ei fodloni yn ôl pwysau tebygolrwydd bod person wedi cyflawni trosedd o dan Ran 11 o'r Rheoliadau hyn.

(2) Caiff yr awdurdod priodol drwy hysbysiad (“hysbysiad cydymffurfio”) osod ar y person hwnnw ofyniad i gymryd unrhyw gamau a bennir gan yr awdurdod priodol, o fewn unrhyw gyfnod a bennir ganddo, i sicrhau na fydd y drosedd yn parhau nac yn ailddigwydd.

(3) Ni chaniateir gosod hysbysiad cydymffurfio ar fwy nag un achlysur mewn perthynas â'r un weithred neu anweithred.

Hysbysiad adfer

2.—(1) Mae'r paragraff hwn yn gymwys pan fo'r awdurdod priodol wedi ei fodloni yn ôl pwysau tebygolrwydd bod person wedi cyflawni trosedd o dan Ran 11 o'r Rheoliadau hyn.

(2) Caiff yr awdurdod priodol drwy hysbysiad (“hysbysiad adfer”) osod ar y person hwnnw ofyniad i gymryd unrhyw gamau a bennir gan yr awdurdod priodol, o fewn unrhyw gyfnod a bennir ganddo, i sicrhau bod y sefyllfa, i'r graddau y bo'n bosibl, yn cael ei hadfer i'r hyn a fyddai wedi bod pe na bai'r drosedd wedi ei chyflawni.

(3) Ni chaniateir gosod hysbysiad adfer ar fwy nag un achlysur mewn perthynas â'r un weithred neu anweithred.

SCHEDULE Regulation 2(9)
Insertion of new Schedule 4A

“SCHEDULE 4A Regulation 48A
Civil sanctions

PART 1

Power to impose civil sanctions

Compliance notice

1.—(1) This paragraph applies where the appropriate authority is satisfied on the balance of probabilities that a person has committed an offence under Part 11 of these Regulations.

(2) The appropriate authority may by notice (a “compliance notice”) impose on that person a requirement to take such steps as the appropriate authority may specify, within such period as it may specify, to secure that the offence does not continue or recur.

(3) A compliance notice may not be imposed on more than one occasion in relation to the same act or omission.

Restoration notice

2.—(1) This paragraph applies where the appropriate authority is satisfied on the balance of probabilities that a person has committed an offence under Part 11 of these Regulations.

(2) The appropriate authority may by notice (a “restoration notice”) impose on that person a requirement to take such steps as the appropriate authority may specify, within such period as it may specify, to secure that the position is, so far as possible, restored to what it would have been if the offence had not been committed.

(3) A restoration notice may not be imposed on more than one occasion in relation to the same act or omission.

Gosod cosb ariannol benodedig

3.—(1) Mae'r paragraff hwn yn gymwys pan fo'r awdurdod priodol wedi ei fodloni yn ôl pwysau tebygolrwydd bod person wedi cyflawni trosedd o dan Ran 11 o'r Rheoliadau hyn.

(2) Caiff yr awdurdod priodol drwy hysbysiad osod ar y person hwnnw ofyniad i dalu cosb ariannol i'r awdurdod priodol o £250 pan fo'r person yn unigolyn a £2000 pan fo'r person yn gorff corfforedig, partneriaeth neu gymdeithas anghorfforedig (“cosb ariannol benodedig”).

(3) Ni chaniateir gosod cosb ariannol benodedig ar fwy nag un achlysur mewn perthynas â'r un weithred neu anweithred.

(4) Caiff yr awdurdod priodol adennill unrhyw gosb ariannol benodedig a osodir o dan y paragraff hwn fel pe bai'n daladwy o dan orchymyn gan y llys.

(5) Rhaid i gosb ariannol benodedig a delir i'r awdurdod priodol o dan y paragraff hwn gael ei thalu i'r Gronfa Gyfunol.

Gosod cosb ariannol amrywiadwy

4.—(1) Mae'r paragraff hwn yn gymwys pan fo'r awdurdod priodol wedi ei fodloni yn ôl pwysau tebygolrwydd bod person wedi cyflawni trosedd o dan Ran 11 o'r Rheoliadau hyn.

(2) Caiff yr awdurdod priodol drwy hysbysiad osod ar y person hwnnw ofyniad i dalu cosb ariannol i'r awdurdod priodol o unrhyw swm a benderfynir ganddo (“cosb ariannol amrywiadwy”).

(3) Ni chaniateir gosod cosb ariannol amrywiadwy ar fwy nag un achlysur mewn perthynas â'r un weithred neu anweithred.

(4) Ni chaniateir i swm cosb ariannol amrywiadwy fod yn fwy na £250,000.

(5) Cyn cyflwyno hysbysiad mewn perthynas â chosb ariannol amrywiadwy, caiff yr awdurdod priodol ei gwneud yn ofynnol i'r person y mae'r hysbysiad hwnnw i'w gyflwyno iddo ddarparu'r wybodaeth honno sy'n rhesymol i bennu swm unrhyw fudd ariannol sy'n deillio o ganlyniad i'r drosedd.

(6) Caiff yr awdurdod priodol adennill unrhyw gosb ariannol amrywiadwy a osodir o dan y paragraff hwn fel pe bai'n daladwy o dan orchymyn gan y llys.

Imposition of a fixed monetary penalty

3.—(1) This paragraph applies where the appropriate authority is satisfied on the balance of probabilities that a person has committed an offence under Part 11 of these Regulations.

(2) The appropriate authority may by notice impose on that person a requirement to pay a monetary penalty to the appropriate authority of £250 where the person is an individual and £2000 where the person is a body corporate, partnership or unincorporated association (a “fixed monetary penalty”).

(3) A fixed monetary penalty may not be imposed on more than one occasion in relation to the same act or omission.

(4) The appropriate authority may recover any fixed monetary penalty imposed under this paragraph as if payable under an order of the court.

(5) A fixed monetary penalty paid to the appropriate authority under this paragraph must be paid into the Consolidated Fund.

Imposition of a variable monetary penalty

4.—(1) This paragraph applies where the appropriate authority is satisfied on the balance of probabilities that a person has committed an offence under Part 11 of these Regulations.

(2) The appropriate authority may by notice impose on that person a requirement to pay a monetary penalty to the appropriate authority in such amount as it may determine (a “variable monetary penalty”).

(3) A variable monetary penalty may not be imposed on more than one occasion in relation to the same act or omission.

(4) The amount of a variable monetary penalty must not exceed £250,000.

(5) Before serving a notice relating to a variable monetary penalty, the appropriate authority may require the person on whom it is to be served to provide such information as is reasonable to establish the amount of any financial benefit arising as a result of the offence.

(6) The appropriate authority may recover any variable monetary penalty imposed under this paragraph as if payable under an order of the court.

(7) Rhaid i gosb ariannol amrywiadwy a delir i'r awdurdod priodol o dan y paragraff hwn gael ei thalu i'r Gronfa Gyfunol.

Hysbysiad o fwriad

5.—(1) Os yw'r awdurdod priodol yn bwriadu cyflwyno i berson hysbysiad cydymffurfio, hysbysiad adfer neu hysbysiad yn gosod cosb ariannol benodedig neu gosb ariannol amrywiadwy o dan y Rhan hon, rhaid iddo gyflwyno i'r person hwnnw hysbysiad o'r hyn a fwriedir ("hysbysiad o fwriad").

- (2) Rhaid i'r hysbysiad o fwriad gynnwys—
- (a) y seiliau dros gyflwyno'r hysbysiad arfaethedig;
 - (b) gofynion yr hysbysiad arfaethedig ac, yn achos cosb, y swm sydd i'w dalu a sut y gellir talu;
 - (c) yn achos cosb ariannol benodedig—
 - (i) datganiad y gellir cael rhyddhad rhag atebolrwydd am y gosb drwy dalu 50% o'r gosb o fewn 28 o ddiwrnodau gan ddechrau â'r diwrnod y cyflwynir yr hysbysiad, a
 - (ii) gwybodaeth am effaith rhyddhau'r gosb;
 - (d) gwybodaeth o ran—
 - (i) yr hawl i wneud sylwadau a gwrthwynebiadau o fewn 28 o ddiwrnodau gan ddechrau â'r diwrnod y cyflwynir yr hysbysiad o fwriad, a
 - (ii) o dan ba amgylchiadau na chaiff yr awdurdod priodol gyflwyno'r hysbysiad arfaethedig.

Cyfuniad o gosbau

6.—(1) Ni chaiff yr awdurdod priodol gyflwyno hysbysiad o fwriad sy'n ymwneud â chosb ariannol benodedig os, mewn perthynas â'r un drosedd—

- (a) cyflwynwyd hysbysiad cydymffurfio, hysbysiad adfer neu hysbysiad stop i'r person hwnnw (gweler paragraffau 1, 2 a 17),
- (b) gosodwyd cosb ariannol amrywiadwy ar y person hwnnw (gweler paragraff 4), neu

(7) A variable monetary penalty paid to the appropriate authority under this paragraph must be paid into the Consolidated Fund.

Notice of intent

5.—(1) If the appropriate authority proposes to serve on a person a compliance notice, a restoration notice or a notice imposing a fixed or variable monetary penalty under this Part, it must serve on that person a notice of what is proposed (a "notice of intent").

- (2) The notice of intent must include—
- (a) the grounds for serving the proposed notice;
 - (b) the requirements of the proposed notice and, in the case of a penalty, the amount to be paid and how payment may be made;
 - (c) in the case of a fixed monetary penalty—
 - (i) a statement that liability for the penalty can be discharged by paying 50% of the penalty within 28 days beginning with the day on which the notice was served, and
 - (ii) information as to the effect of discharging the penalty;
 - (d) information as to—
 - (i) the right to make representations and objections within 28 days beginning with the day on which the notice of intent was served, and
 - (ii) the circumstances in which the appropriate authority may not serve the proposed notice.

Combination of penalties

6.—(1) The appropriate authority may not serve a notice of intent relating to a fixed monetary penalty if, in relation to the same offence—

- (a) a compliance notice, restoration notice or stop notice has been served on that person (see paragraphs 1, 2 and 17),
- (b) a variable monetary penalty has been imposed on that person (see paragraph 4), or

- (c) derbyniwyd ymgymeriad trydydd parti neu ymgymeriad gorfodi oddi wrth y person hwnnw (gweler paragraffau 9 a 23).

(2) Ni chaiff yr awdurdod priodol gyflwyno hysbysiad o fwriad sy'n ymwneud â hysbysiad cydymffurfio, hysbysiad adfer neu gosb ariannol amrywiadwy, na chyflwyno hysbysiad stop os, mewn perthynas â'r un drosedd—

- (a) gosodwyd cosb ariannol benodedig ar y person hwnnw, neu
- (b) rhyddhawyd y person hwnnw rhag atebolrwydd am gosb ariannol benodedig yn dilyn cyflwyno hysbysiad o fwriad i osod y gosb honno.

Rhyddhau rhag atebolrwydd – cosbau ariannol penodedig

7. Caiff cosb ariannol benodedig ei rhyddhau os yw person y cyflwynwyd hysbysiad o fwriad iddo yn talu 50% o swm y gosb o fewn 28 o ddiwrnodau gan ddechrau â'r diwrnod y cyflwynir yr hysbysiad.

Gwneud sylwadau a gwrthwynebiadau

8. Caiff person y cyflwynwyd hysbysiad o fwriad iddo, o fewn 28 o ddiwrnodau gan ddechrau â'r diwrnod y cyflwynir yr hysbysiad, wneud sylwadau a gwrthwynebiadau ysgrifenedig i'r awdurdod priodol mewn perthynas â'r bwriad o gyflwyno hysbysiad cydymffurfio, hysbysiad adfer neu hysbysiad yn gosod cosb ariannol benodedig neu gosb ariannol amrywiadwy.

Ymgymeriadau trydydd parti

9.—(1) Caiff person y cyflwynwyd hysbysiad o fwriad iddo mewn perthynas â hysbysiad cydymffurfio, hysbysiad adfer neu gosb ariannol amrywiadwy gynnig ymgymeriad o ran camau sydd i'w cymryd gan y person hwnnw (gan gynnwys talu swm o arian) er budd unrhyw drydydd parti yr effeithir arno gan y drosedd (“ymgymeriad trydydd parti”).

(2) Caiff yr awdurdod priodol dderbyn neu wrthod ymgymeriad trydydd parti.

(3) Rhaid i'r awdurdod priodol ystyried unrhyw ymgymeriad trydydd parti y mae'n ei dderbyn wrth benderfynu pa un ai i gyflwyno hysbysiad terfynol ai peidio, ac, os yw'n cyflwyno hysbysiad yn gosod cosb ariannol amrywiadwy, wrth benderfynu swm y gosb.

- (c) a third party or enforcement undertaking has been accepted from that person (see paragraphs 9 and 23).

(2) The appropriate authority may not serve a notice of intent relating to a compliance notice, a restoration notice or a variable monetary penalty, or serve a stop notice, on any person if, in relation to the same offence—

- (a) a fixed monetary penalty has been imposed on that person, or
- (b) that person has discharged liability for a fixed monetary penalty following service of a notice of intent to impose that penalty.

Discharge of liability – fixed monetary penalties

7. A fixed monetary penalty is discharged if a person on whom a notice of intent is served pays 50% of the amount of the penalty within 28 days beginning with the day on which the notice was served.

Making representations and objections

8. A person on whom a notice of intent is served may within 28 days beginning with the day on which the notice is served make written representations and objections to the appropriate authority in relation to the proposed service of a compliance notice, restoration notice or notice imposing a fixed or variable monetary penalty.

Third party undertakings

9.—(1) A person on whom a notice of intent relating to a compliance notice, a restoration notice or a variable monetary penalty is served may offer an undertaking as to action to be taken by that person (including the payment of a sum of money) to benefit any third party affected by the offence (a “third party undertaking”).

(2) The appropriate authority may accept or reject a third party undertaking.

(3) The appropriate authority must take into account any third party undertaking that it accepts in its decision as to whether or not to serve a final notice, and, if it serves a notice imposing a variable monetary penalty, the amount of the penalty.

Hysbysiad terfynol

10.—(1) Ar ôl diwedd y cyfnod ar gyfer gwneud sylwadau a gwrthwynebiadau, rhaid i'r awdurdod priodol benderfynu p'un ai i osod y gofynion a ddisgrifir yn yr hysbysiad o fwriad, gyda neu heb addasiadau.

(2) Pan fo'r awdurdod priodol yn penderfynu gosod gofyniad, rhaid i'r hysbysiad sy'n ei osod (yr "hysbysiad terfynol") gydymffurfio â pharagraff 11 (ar gyfer hysbysiadau cydymffurfio neu hysbysiadau adfer) neu 12 (ar gyfer cosbau ariannol penodedig neu amrywiadwy).

(3) Ni chaiff yr awdurdod priodol osod hysbysiad terfynol ar berson pan fo'r awdurdod priodol wedi ei fodloni na fyddai'r person hwnnw, oherwydd unrhyw amddiffyniad, hawlen neu drwydded, yn agored i gael ei euogfarnu o'r drosedd y mae'r hysbysiad yn ymwneud â hi.

(4) Pan fo'r awdurdod priodol yn cyflwyno hysbysiad terfynol sy'n ymwneud â chosb ariannol benodedig mewn cysylltiad ag unrhyw drosedd, ni chaiff yr awdurdod priodol mewn perthynas â'r drosedd honno gyflwyno—

- (a) hysbysiad cydymffurfio,
- (b) hysbysiad adfer,
- (c) hysbysiad yn gosod cosb ariannol amrywiadwy, neu
- (d) hysbysiad stop.

(5) Nid yw'r paragraff hwn yn gymwys i berson sydd wedi ei ryddhau rhag cosb ariannol benodedig yn unol â pharagraff 7.

Cynnwys hysbysiad terfynol: hysbysiadau cydymffurfio a hysbysiadau adfer

11. Rhaid i hysbysiad terfynol sy'n ymwneud â hysbysiad cydymffurfio neu hysbysiad adfer gynnwys gwybodaeth o ran—

- (a) y seiliau dros gyflwyno'r hysbysiad,
- (b) pa gamau cydymffurfio neu adfer sy'n ofynnol ac o fewn pa gyfnod y mae rhaid eu cwblhau,
- (c) hawliau i apelio, a
- (d) canlyniadau methu â chydymffurfio â'r hysbysiad.

Final notice

10.—(1) After the end of the period for making representations and objections, the appropriate authority must decide whether to impose the requirements described in the notice of intent, with or without modifications.

(2) Where the appropriate authority decides to impose a requirement, the notice imposing it (the "final notice") must comply with paragraph 11 (for compliance or restoration notices) or 12 (for fixed or variable monetary penalties).

(3) The appropriate authority may not impose a final notice on a person where it is satisfied that the person would not, by reason of any defence, permit or licence, be liable to be convicted of the offence to which the notice relates.

(4) Where the appropriate authority serves a final notice relating to a fixed monetary penalty in respect of any offence, the appropriate authority may not in relation to that offence serve—

- (a) a compliance notice,
- (b) a restoration notice,
- (c) a notice imposing a variable monetary penalty, or
- (d) a stop notice.

(5) This paragraph does not apply to a person who has discharged a fixed monetary penalty in accordance with paragraph 7.

Contents of final notice: compliance and restoration notices

11. A final notice relating to a compliance notice or a restoration notice must include information as to—

- (a) the grounds for serving the notice,
- (b) what compliance or restoration is required and the period within which it must be completed,
- (c) rights of appeal, and
- (d) the consequences of failing to comply with the notice.

Cynnwys hysbysiad terfynol: cosbau ariannol penodedig a chosbau ariannol amrywiadwy

12. Rhaid i hysbysiad terfynol sy'n ymwneud â chosb ariannol benodedig neu gosb ariannol amrywiadwy gynnwys gwybodaeth o ran—

- (a) y seiliau dros osod y gosb,
- (b) y swm sydd i'w dalu,
- (c) sut y gellir talu,
- (d) o fewn pa gyfnod y mae rhaid talu (y "cyfnod talu"), ni chaiff y cyfnod hwnnw fod yn llai na 56 o ddiwrnodau, gan ddechrau â'r diwrnod y cyflwynir yr hysbysiad,
- (e) yn achos cosb ariannol benodedig, manylion y disgownt am dalu'n gynnar (gweler paragraff 13) a'r cosbau am dalu'n hwyr (gweler paragraff 15(2) a (3)),
- (f) hawliau i apelio, ac
- (g) canlyniadau methu â chydymffurfio â'r hysbysiad.

Cosb ariannol benodedig: disgownt am dalu'n gynnar

13. Os yw person y cyflwynwyd hysbysiad o fwriad iddo mewn perthynas â chosb ariannol benodedig arfaethedig yn gwneud sylwadau neu wrthwynebiadau ynglŷn â'r hysbysiad hwnnw o fewn y terfyn amser a bennir ym mharagraff 8, caiff y person hwnnw ryddhau'r hysbysiad terfynol drwy dalu 50% o'r gosb derfynol o fewn 28 o ddiwrnodau gan ddechrau â'r diwrnod y cyflwynir yr hysbysiad terfynol.

Apelau yn erbyn hysbysiad terfynol

14.—(1) Caiff y person y cyflwynwyd hysbysiad terfynol iddo apelio yn ei erbyn.

(2) Y seiliau dros apelio yw—

- (a) bod y penderfyniad yn seiliedig ar wall ffeithiol;
- (b) bod y penderfyniad yn anghywir mewn cyfraith;
- (c) yn achos cosb ariannol amrywiadwy, bod swm y gosb yn afresymol;
- (d) yn achos gofyniad nad yw'n ofyniad ariannol, bod natur y gofyniad yn afresymol;
- (e) bod y penderfyniad yn afresymol am unrhyw reswm arall;

Contents of final notice: fixed and variable monetary penalties

12. A final notice relating to a fixed or variable monetary penalty must include information as to—

- (a) the grounds for imposing the penalty,
- (b) the amount to be paid,
- (c) how payment may be made,
- (d) the period within which payment must be made (the "payment period"), which must be not less than 56 days beginning with the day on which the notice is served,
- (e) in the case of a fixed monetary penalty, details of the early payment discount (see paragraph 13) and late payment penalties (see paragraph 15(2) and (3)),
- (f) rights of appeal, and
- (g) the consequences of failing to comply with the notice.

Fixed monetary penalty: discount for early payment

13. If a person who was served with a notice of intent relating to a proposed fixed monetary penalty made representations or objections concerning that notice within the time limit specified in paragraph 8, that person may discharge the final notice by paying 50% of the final penalty within 28 days beginning with the day on which the final notice was served.

Appeals against a final notice

14.—(1) The person on whom a final notice is served may appeal against it.

(2) The grounds for appeal are—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) in the case of a variable monetary penalty, that the amount of the penalty is unreasonable;
- (d) in the case of a non-monetary requirement, that the nature of the requirement is unreasonable;
- (e) that the decision was unreasonable for any other reason;

- (f) bod y penderfyniad yn anghywir am unrhyw reswm arall.

Cosb ariannol benodedig: peidio â thalu o fewn y cyfnod talu a nodir

15.—(1) Mae'r paragraff hwn yn gymwys i hysbysiad terfynol sy'n ymwneud â chosb ariannol benodedig.

(2) Os na thelir y gosb derfynol o fewn y cyfnod talu a nodir, cynyddir y swm sy'n daladwy gan 50%.

(3) Yn achos apêl sy'n aflwyddiannus, mae'r gosb yn daladwy o fewn 28 o ddiwrnodau o benderfynu'r apêl, ac os nad yw wedi ei dalu o fewn 28 o ddiwrnodau, cynyddir swm y gosb gan 50%.

Achosion troseddol

16.—(1) Os—

- (a) cyflwynir hysbysiad cydymffurfio neu hysbysiad adfer i unrhyw berson,
- (b) derbynnir ymgymeriad trydydd parti gan unrhyw berson,
- (c) cyflwynir hysbysiad yn gosod cosb ariannol amrywiadwy i unrhyw berson, neu
- (d) cyflwynir cosb ariannol benodedig i unrhyw berson,

ni chaniateir ar unrhyw adeg euogfarnu'r person hwnnw o drosedd o dan Ran 11 o'r Rheoliadau hyn mewn cysylltiad â'r weithred neu'r anweithred sy'n arwain at yr hysbysiad cydymffurfio, yr hysbysiad adfer, yr ymgymeriad trydydd parti, y gosb ariannol amrywiadwy neu'r gosb ariannol benodedig ac eithrio mewn achos sy'n dod o fewn paragraff (a) neu (b) (ac nad yw hefyd yn dod o fewn paragraff (c)) pan fo'r person yn methu â chydymffurfio â hysbysiad cydymffurfio, hysbysiad adfer neu ymgymeriad trydydd parti (yn ôl y digwydd).

(2) Caniateir cychwyn achos troseddol am droseddau y mae hysbysiad neu ymgymeriad trydydd parti yn is-baragraff (1) yn ymwneud â hwy ar unrhyw adeg hyd at 6 mis o'r dyddiad pan fydd yr awdurdod priodol yn hysbysu'r person y mae'r achos i'w gymryd yn ei erbyn fod y person hwnnw wedi methu â chydymffurfio â'r hysbysiad neu'r ymgymeriad hwnnw.

- (f) that the decision was wrong for any other reason.

Fixed monetary penalty: non-payment within the stated payment period

15.—(1) This paragraph applies to a final notice relating to a fixed monetary penalty.

(2) If the final penalty is not paid within the stated payment period, the amount payable is increased by 50%.

(3) In the case of an appeal which is unsuccessful, the penalty is payable within 28 days of the determination of the appeal, and if it is not paid within 28 days, the amount of the penalty is increased by 50%.

Criminal proceedings

16.—(1) If—

- (a) a compliance notice or restoration notice is served on any person,
- (b) a third party undertaking is accepted from any person,
- (c) a notice imposing a variable monetary penalty is served on any person, or
- (d) a fixed monetary penalty is served on any person,

that person may not at any time be convicted of an offence under Part 11 of these Regulations in respect of the act or omission giving rise to the compliance notice, restoration notice, third party undertaking, variable monetary penalty or fixed monetary penalty except in a case falling within paragraph (a) or (b) (and not also falling within paragraph (c)) where the person fails to comply with a compliance notice, restoration notice or third party undertaking (as the case may be).

(2) Criminal proceedings for offences to which a notice or third party undertaking in subparagraph (1) relates may be instituted at any time up to 6 months from the date from when the appropriate authority notifies the person against whom the proceedings are to be taken that the person has failed to comply with that notice or undertaking.

RHAN 2

Hysbysiadau stop

Hysbysiadau stop

17.—(1) Caiff yr awdurdod priodol gyflwyno hysbysiad (“hysbysiad stop”) i unrhyw berson yn gwahardd y person hwnnw rhag cynnal gweithgaredd a bennir yn yr hysbysiad hyd nes y bydd y person wedi cymryd y camau a bennir yn yr hysbysiad.

(2) Ni chaniateir ond cyflwyno hysbysiad stop—

- (a) pan fo’r person yn cynnal y gweithgaredd neu pan fo’r awdurdod priodol yn credu’n rhesymol bod y person yn debygol o gynnal y gweithgaredd,
- (b) pan fo’r awdurdod priodol yn credu’n rhesymol fod y gweithgaredd yn achosi, neu’n debygol o achosi, niwed economaidd neu amgylcheddol, neu effeithiau andwyol ar iechyd planhigion, ac
- (c) pan fo’r awdurdod priodol yn credu’n rhesymol bod y gweithgaredd sy’n cael ei gynnal, neu sy’n debygol o gael ei gynnal, gan y person hwnnw yn cynnwys neu’n debygol o gynnwys cyflawni trosedd o dan Ran 11 o’r Rheoliadau hyn.

(3) Rhaid i’r camau y cyfeirir atynt yn is-baragraff (1) fod yn gamau i ddileu’r risg y cyflawnir y drosedd.

Cynnwys hysbysiad stop

18. Rhaid i hysbysiad stop gynnwys gwybodaeth o ran—

- (a) y seiliau dros gyflwyno’r hysbysiad stop,
- (b) y gweithgaredd a waherddir,
- (c) y camau y mae rhaid i’r person eu cymryd i gydymffurfio â’r hysbysiad stop ac o fewn pa gyfnod y mae rhaid iddynt gael eu cwblhau,
- (d) hawliau i apelio, ac
- (e) canlyniadau methu â chydymffurfio â’r hysbysiad.

PART 2

Stop notices

Stop notices

17.—(1) The appropriate authority may serve a notice (a “stop notice”) on any person prohibiting that person from carrying on an activity specified in the notice until the person has taken the steps specified in the notice.

(2) A stop notice may only be served where—

- (a) the person is carrying on the activity or the appropriate authority reasonably believes that the person is likely to carry on the activity,
- (b) the appropriate authority reasonably believes that the activity is causing, or is likely to cause, economic or environmental harm, or adverse effects to plant health, and
- (c) the appropriate authority reasonably believes that the activity carried on, or likely to be carried on, by that person involves or is likely to involve, the commission of an offence under Part 11 of these Regulations.

(3) The steps referred to in sub-paragraph (1) must be steps to eliminate the risk of the offence being committed.

Contents of a stop notice

18. A stop notice must include information as to—

- (a) the grounds for serving the stop notice,
- (b) the activity which is prohibited,
- (c) the steps the person must take to comply with the stop notice and the period within which they must be completed,
- (d) rights of appeal, and
- (e) the consequences of failing to comply with the notice.

Apelau

19.—(1) Caiff y person y cyflwynwyd hysbysiad stop iddo apelio yn erbyn y penderfyniad i'w gyflwyno.

(2) Y seiliau dros apelio 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) bod unrhyw gam a bennir yn yr hysbysiad yn afresymol;
- (e) nad yw'r person wedi cyflawni trosedd ac na fyddai wedi ei chyflawni pe na bai'r hysbysiad wedi ei gyflwyno;
- (f) na fyddai'r person hwnnw, oherwydd unrhyw amddiffyniad, hawlen neu drwydded wedi bod yn agored i gael ei euogfarnu o'r drosedd pe na bai'r hysbysiad stop wedi ei gyflwyno;
- (g) bod y penderfyniad yn anghywir am unrhyw reswm arall.

Tystysgrifau cwblhau

20.—(1) Rhaid i'r awdurdod priodol ddyroddi tystysgrif (“tystysgrif gwblhau”) os, ar ôl cyflwyno hysbysiad stop, yw'r awdurdod priodol wedi ei fodloni bod y person y'i cyflwynwyd iddo wedi cymryd y camau a bennir yn yr hysbysiad.

(2) Mae hysbysiad stop yn peidio â chael effaith pan ddyroddir tystysgrif gwblhau.

(3) Caiff yr awdurdod priodol ei gwneud yn ofynnol i'r person y cyflwynwyd yr hysbysiad stop iddo ddarparu gwybodaeth sy'n ddigonol i benderfynu y cymerwyd y camau a bennir yn yr hysbysiad.

(4) Caiff person y cyflwynwyd hysbysiad stop iddo ar unrhyw adeg wneud cais am dystysgrif gwblhau.

(5) Rhaid i'r awdurdod priodol benderfynu pa un ai i ddyroddi tystysgrif gwblhau, a rhoi hysbysiad ysgrifenedig o'r penderfyniad i'r ceisydd (gan gynnwys gwybodaeth am yr hawl i apelio), o fewn 14 o ddiwrnodau o gael y cais.

(6) Caiff y ceisydd apelio yn erbyn penderfyniad i beidio â dyroddi tystysgrif gwblhau ar y seiliau fod y penderfyniad—

- (a) yn seiliedig ar wall ffeithiol;
- (b) yn anghywir mewn cyfraith;

Appeals

19.—(1) The person on whom a stop notice is served may appeal against the decision to serve it.

(2) The grounds for appeal are—

- (a) that the decision was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the decision was unreasonable;
- (d) that any step specified in the notice is unreasonable;
- (e) that the person has not committed the offence and would not have committed it had the stop notice not been served;
- (f) that the person would not, by reason of any defence, permit or licence have been liable to be convicted of the offence had the stop notice not been served;
- (g) that the decision was wrong for any other reason.

Completion certificates

20.—(1) The appropriate authority must issue a certificate (a “completion certificate”) if, after service of a stop notice, the appropriate authority is satisfied that the person on whom it was served has taken the steps specified in the notice.

(2) A stop notice ceases to have effect on the issue of a completion certificate.

(3) The appropriate authority may require the person on whom the stop notice was served to provide sufficient information to determine that the steps specified in the notice have been taken.

(4) A person on whom a stop notice is served may at any time apply for a completion certificate.

(5) The appropriate authority must decide whether to issue a completion certificate and give written notice of the decision to the applicant (including information as to the right of appeal) within 14 days of the application.

(6) The applicant may appeal against a decision not to issue a completion certificate on the grounds that the decision—

- (a) was based on an error of fact;
- (b) was wrong in law;

- (c) yn annheg neu'n afresymol;
- (d) yn anghywir am unrhyw reswm arall.

Digollediad

21.—(1) Rhaid i'r awdurdod priodol ddigolledu person am golled a ddioddefodd o ganlyniad i gyflwyno'r hysbysiad stop neu wrthod tystysgrif gwblhau os yw'r person hwnnw wedi dioddef colled o ganlyniad i'r hysbysiad neu'r gwrthodiad ac—

- (a) bod yr hysbysiad stop wedi ei dynnu'n ôl neu wedi ei ddiwygio wedi hynny gan yr awdurdod priodol am fod y penderfyniad i'w gyflwyno yn afresymol neu am fod unrhyw gam a bennwyd yn yr hysbysiad yn afresymol,
- (b) bod yr awdurdod priodol yn torri ei ymrwymadau statudol,
- (c) bod y person yn apelio'n llwyddiannus yn erbyn yr hysbysiad stop a bod y Tribiwnlys Haen Gyntaf yn dyfarnu bod cyflwyno'r hysbysiad yn afresymol, neu
- (d) bod y person yn apelio'n llwyddiannus yn erbyn y penderfyniad i wrthod dyroddi tystysgrif gwblhau a bod y Tribiwnlys Haen Gyntaf yn dyfarnu bod y gwrthodiad hwnnw yn afresymol.

(2) Caiff person apelio yn erbyn penderfyniad i beidio â dyfarnu digollediad neu apelio yn erbyn swm y digollediad ar y seiliau—

- (a) bod penderfyniad yr awdurdod priodol yn afresymol,
- (b) bod y swm a gynigiwyd yn seiliedig ar ffeithiau anghywir, neu
- (c) bod y penderfyniad yn anghywir am unrhyw reswm arall.

Troseddau

22. Os nad yw person y cyflwynir hysbysiad stop iddo yn cydymffurfio â'r hysbysiad hwnnw o fewn y terfyn amser a bennir yn yr hysbysiad, mae'r person yn euog o drosedd ac yn agored ar euogfarn ddiannod i ddirwy.

- (c) was unfair or unreasonable;
- (d) was wrong for any other reason.

Compensation

21.—(1) The appropriate authority must compensate a person for loss suffered as the result of the service of the stop notice or the refusal of a completion certificate if that person has suffered loss as a result of the notice or refusal and—

- (a) the stop notice is subsequently withdrawn or amended by the appropriate authority because the decision to serve it was unreasonable or any step specified in the notice was unreasonable,
- (b) the appropriate authority is in breach of its statutory obligations,
- (c) the person successfully appeals against the stop notice and the First-tier Tribunal finds that the service of the notice was unreasonable, or
- (d) the person successfully appeals against the refusal of a completion certificate and the First-tier Tribunal finds that the refusal was unreasonable.

(2) A person may appeal against a decision not to award compensation or the amount of compensation on the grounds that—

- (a) the appropriate authority's decision was unreasonable,
- (b) the amount offered was based on incorrect facts, or
- (c) the decision was wrong for any other reason.

Offences

22. If a person on whom a stop notice is served does not comply with it within the time limit specified in the notice, the person is guilty of an offence and liable on summary conviction to a fine.

RHAN 3

Ymgyniadau gorfodi

Ymgyniadau gorfodi

23. Pan fo gan yr awdurdod priodol seiliau rhesymol i amau bod person wedi cyflawni trosedd o dan Ran 11 o'r Rheoliadau hyn, caiff yr awdurdod priodol dderbyn ymgyniad ysgrifenedig ("ymgyniad gorfodi") a roddir gan y person hwnnw i gymryd unrhyw gamau a bennir yn yr ymgyniad o fewn unrhyw gyfnod a bennir.

Cynnwys ymgyniad gorfodi

24.—(1) Rhaid i ymgyniad gorfodi bennu—

- (a) camau i'w cymryd gan y person i sicrhau nad yw'r drosedd yn parhau nac yn ailddigwydd,
- (a) camau i sicrhau bod y sefyllfa, i'r graddau y bo'n bosibl, yn cael ei hadfer i'r hyn a fyddai wedi bod pe na bai'r drosedd wedi ei chyflawni, neu
- (c) camau (gan gynnwys talu swm o arian) i'w cymryd gan y person er budd unrhyw berson yr effeithir arno gan y drosedd.

(2) Rhaid iddo bennu o fewn pa gyfnod y mae rhaid cwblhau'r camau.

(3) Rhaid iddo gynnwys—

- (a) datganiad y gwneir yr ymgyniad yn unol â'r Atodlen hon,
- (b) amodau'r ymgyniad, ac
- (c) gwybodaeth o ran sut a phryd yr ystyrir bod y person wedi cyflawni'r ymgyniad.

(4) Caniateir amrywio'r ymgyniad gorfodi, neu estyn y cyfnod y mae rhaid cwblhau'r camau ynddo, os yw'r awdurdod priodol a'r person a roddodd yr ymgyniad yn cytuno i hynny yn ysgrifenedig.

Derbyn ymgyniad gorfodi

25.—(1) Os yw'r awdurdod priodol wedi derbyn ymgyniad gorfodi gan berson—

- (a) ni chaniateir ar unrhyw adeg euogfarnu'r person hwnnw o'r drosedd mewn cysylltiad â'r weithred neu'r anweithred y mae'r ymgyniad yn ymwneud â hi, a

PART 3

Enforcement undertakings

Enforcement undertakings

23. Where the appropriate authority has reasonable grounds to suspect that a person has committed an offence under Part 11 of these Regulations, the appropriate authority may accept a written undertaking (an "enforcement undertaking") given by that person to take such action as may be specified in the undertaking within such period as may be specified.

Contents of an enforcement undertaking

24.—(1) An enforcement undertaking must specify—

- (a) action to be taken by the person to secure that the offence does not continue or recur,
- (b) action to secure that the position is, so far as possible, restored to what it would have been if the offence had not been committed, or
- (c) action (including the payment of a sum of money) to be taken by the person to benefit any person affected by the offence.

(2) It must specify the period within which the action must be completed.

(3) It must include—

- (a) a statement that the undertaking is made in accordance with this Schedule,
- (b) the terms of the undertaking, and
- (c) information as to how and when the person is to be considered to have discharged the undertaking.

(4) The enforcement undertaking may be varied, or the period within which the action must be completed may be extended, if both the appropriate authority and the person who gave the undertaking agree in writing.

Acceptance of an enforcement undertaking

25.—(1) If the appropriate authority has accepted an enforcement undertaking from a person—

- (a) that person may not at any time be convicted of the offence in respect of the act or omission to which the undertaking relates, and

(b) ni chaiff yr awdurdod priodol gyflwyno i'r person hwnnw hysbysiad cydymffurfio, hysbysiad adfer na hysbysiad stop, na gosod cosb ariannol benodedig na chosb ariannol amrywiadwy ar y person hwnnw, mewn cysylltiad â'r weithred neu'r anweithred honno.

(2) Nid yw paragraff (1) yn gymwys os yw person a roddodd yr ymgymeriad wedi methu â chydymffurfio ag ef neu ag unrhyw ran ohono.

Cyflawni ymgymeriad gorfodi

26.—(1) Os yw'r awdurdod priodol wedi ei fodloni y cydymffurfiwyd ag ymgymeriad gorfodi, rhaid iddo ddyroddi tystysgrif (“tystysgrif gyflawni”) i'r perwyl hwnnw.

(2) Mae ymgymeriad gorfodi yn peidio â chael effaith pan ddyroddir tystysgrif gyflawni.

(3) Caiff yr awdurdod priodol ei gwneud yn ofynnol i'r person sydd wedi rhoi'r ymgymeriad ddarparu gwybodaeth sy'n ddigonol i benderfynu y cydymffurfiwyd â'r ymgymeriad.

(4) Caiff y person a roddodd yr ymgymeriad wneud cais ar unrhyw adeg am dystysgrif gyflawni.

(5) Rhaid i'r awdurdod priodol benderfynu pa un ai i ddyroddi tystysgrif gyflawni, a rhoi hysbysiad ysgrifenedig o'r penderfyniad i'r ceisydd (gan gynnwys gwybodaeth am yr hawl i apelio), o fewn 14 o ddiwrnodau o gael cais o'r fath.

(6) Caiff y ceisydd apelio yn erbyn penderfyniad i beidio â dyroddi tystysgrif gyflawni ar y seiliau fod y penderfyniad—

- (a) yn seiliedig ar wall ffeithiol;
- (b) yn anghywir mewn cyfraith;
- (c) yn annheg neu'n afresymol;
- (d) yn anghywir am unrhyw reswm arall.

Gwybodaeth anghywir, anghyflawn neu gamarweiniol

27.—(1) Mae person sydd wedi rhoi gwybodaeth anghywir, anghyflawn neu gamarweiniol mewn perthynas ag ymgymeriad gorfodi i'w ystyried fel pe na bai wedi cydymffurfio â'r ymgymeriad hwnnw.

(2) Caiff yr awdurdod priodol drwy hysbysiad ysgrifenedig ddirymu tystysgrif gyflawni a ddyroddwyd o dan baragraff 26 os y'i dyroddwyd ar sail gwybodaeth anghywir, gamarweiniol neu anghyflawn.

(b) the appropriate authority may not serve on that person a compliance notice, restoration notice or stop notice, or impose a fixed or variable monetary penalty on that person, in respect of that act or omission.

(2) Paragraph (1) does not apply if a person who gave the undertaking has failed to comply with it or any part of it.

Discharge of an enforcement undertaking

26.—(1) If the appropriate authority is satisfied that an enforcement undertaking has been complied with, it must issue a certificate (a “discharge certificate”) to that effect.

(2) An enforcement undertaking ceases to have effect on the issue of a discharge certificate.

(3) The appropriate authority may require the person who has given the undertaking to provide sufficient information to determine that the undertaking has been complied with.

(4) The person who gave the undertaking may at any time apply for a discharge certificate.

(5) The appropriate authority must decide whether to issue a discharge certificate, and give written notice of the decision to the applicant (including information as to the right of appeal), within 14 days of such an application.

(6) The applicant may appeal against a decision not to issue a discharge certificate on the grounds that the decision—

- (a) was based on an error of fact;
- (b) was wrong in law;
- (c) was unfair or unreasonable;
- (d) was wrong for any other reason.

Inaccurate, incomplete or misleading information

27.—(1) A person who has given inaccurate, incomplete or misleading information in relation to an enforcement undertaking is to be regarded as not having complied with it.

(2) The appropriate authority may by notice in writing revoke a discharge certificate issued under paragraph 26 if it was issued on the basis of inaccurate, misleading or incomplete information.

Peidio â chydymffurfio ag ymgymeriad gorfodi

28.—(1) Os nad yw person yn cydymffurfio ag ymgymeriad gorfodi, caiff yr awdurdod priodol, yn achos trosedd a gyflawnir o dan Ran 11 o'r Rheoliadau hyn—

- (a) cyflwyno hysbysiad cydymffurfio, hysbysiad adfer, cosb ariannol amrywiadwy, hysbysiad stop neu gosb am fethu â chydymffurfio, neu
- (b) dwyn achos troseddol.

(2) Os yw person wedi cydymffurfio yn rhannol ond nid yn llwyr ag ymgymeriad, rhaid ystyried y cydymffurfio rhannol hwnnw wrth osod unrhyw sancsiwn troseddol neu sancsiwn arall ar y person.

(3) Caniateir cychwyn achos troseddol am droseddau y mae ymgymeriad gorfodi yn ymwneud â hwy ar unrhyw adeg hyd at 6 mis o'r dyddiad y mae'r awdurdod priodol yn hysbysu'r person fod y person hwnnw wedi methu â chydymffurfio â'r ymgymeriad.

RHAN 4

Cosbau am beidio â chydymffurfio

Cosbau am beidio â chydymffurfio

29.—(1) Caiff yr awdurdod priodol gyflwyno hysbysiad i berson yn gosod cosb ariannol (“cosb am beidio â chydymffurfio”) os yw'r person hwnnw yn methu â chydymffurfio ag—

- (a) hysbysiad cydymffurfio, hysbysiad adfer neu ymgymeriad trydydd parti, ni waeth a osodwyd cosb ariannol amrywiadwy hefyd ai peidio, neu
- (b) ymgymeriad gorfodi.

(2) Rhaid i'r awdurdod priodol bennu swm y gosb am beidio â chydymffurfio, a rhaid i'r swm hwnnw fod yn ganran o gostau cyflawni gweddill gofynion yr hysbysiad cydymffurfio, yr hysbysiad adfer, yr ymgymeriad trydydd parti neu'r ymgymeriad gorfodi.

(3) Rhaid i'r awdurdod priodol bennu'r ganran gan roi sylw i holl amgylchiadau'r achos, a chaiff y ganran honno, os yw'n briodol, fod yn 100%.

(4) Rhaid i'r hysbysiad gynnwys gwybodaeth o ran—

- (a) y seiliau dros osod y gosb am beidio â chydymffurfio,

Non-compliance with an enforcement undertaking

28.—(1) If a person does not comply with an enforcement undertaking, the appropriate authority may, in the case of an offence committed under Part 11 of these Regulations—

- (a) serve a compliance notice, restoration notice, variable monetary penalty, stop notice or non-compliance penalty, or
- (b) bring criminal proceedings.

(2) If a person has complied partly but not fully with an undertaking, that partial compliance must be taken into account in the imposition of any criminal or other sanction on the person.

(3) Criminal proceedings for offences to which an enforcement undertaking relates may be instituted at any time up to 6 months from the date on which the appropriate authority notifies the person that the person has failed to comply with the undertaking.

PART 4

Non-compliance penalties

Non-compliance penalties

29.—(1) The appropriate authority may serve a notice on a person imposing a monetary penalty (a “non-compliance penalty”) if that person fails to comply with—

- (a) a compliance notice, restoration notice or third party undertaking, irrespective of whether a variable monetary penalty was also imposed, or
- (b) an enforcement undertaking.

(2) The amount of the non-compliance penalty must be determined by the appropriate authority, and must be a percentage of the costs of fulfilling the remaining requirements of the compliance notice, restoration notice, third party undertaking or enforcement undertaking.

(3) The percentage must be determined by the appropriate authority having regard to all the circumstances of the case and may, if appropriate, be 100%.

(4) The notice must include information as to—

- (a) the grounds for imposing the non-compliance penalty,

- (b) y swm sydd i'w dalu,
- (c) sut y mae rhaid talu,
- (d) o fewn pa gyfnod y mae rhaid talu, ni chaiff y cyfnod hwnnw fod yn llai na 28 o ddiwrnodau gan ddechrau â'r diwrnod y cyflwynir yr hysbysiad,
- (e) hawliau i apelio,
- (f) canlyniadau methu â chydymffurfio â'r hysbysiad, ac
- (g) o dan ba amgylchiadau y caiff yr awdurdod priodol leihau swm y gosb.

(5) Os cydymffurfir â gofynion yr hysbysiad cydymffurfio, yr hysbysiad adfer, yr ymgymeriad trydydd parti neu'r ymgymeriad gorfodi cyn y terfyn amser a bennir ar gyfer talu'r gosb am beidio â chydymffurfio, nid yw'r gosb yn daladwy.

(6) Ar ôl i'r cyfnod talu penodedig ddod i ben, caiff yr awdurdod priodol adennill y gosb am beidio â chydymffurfio fel pe bai'n daladwy o dan orchymyn gan y llys.

(7) Rhaid i gosb am beidio â chydymffurfio a delir i'r awdurdod priodol o dan y paragraff hwn gael ei thalu i'r Gronfa Gyfunol.

Apelau

30.—(1) Caiff y person y cyflwynwyd iddo yr hysbysiad sy'n gosod y gosb am beidio â chydymffurfio apelio yn ei erbyn.

- (2) Y seiliau dros apelio yw—
 - (a) bod y penderfyniad i gyflwyno'r hysbysiad yn seiliedig ar wall ffeithiol;
 - (b) bod y penderfyniad yn anghywir mewn cyfraith;
 - (c) bod y penderfyniad yn annheg neu'n afresymol am unrhyw reswm;
 - (d) bod swm y gosb yn afresymol;
 - (e) bod y penderfyniad yn anghywir am reswm arall.

RHAN 5

Tynnu hysbysiadau yn ôl a diwygio hysbysiadau

Tynnu hysbysiad yn ôl neu ddiwygio hysbysiad

31. Caiff yr awdurdod priodol ar unrhyw adeg yn ysgrifenedig—

- (b) the amount to be paid,
- (c) how payment must be made,
- (d) the period in which payment must be made, which must not be less than 28 days beginning with the day on which the notice is served,
- (e) rights of appeal,
- (f) the consequences of failure to comply with the notice, and
- (g) any circumstances in which the appropriate authority may reduce the amount of the penalty.

(5) If the requirements of the compliance notice, restoration notice, third party undertaking or enforcement undertaking are fulfilled before the time specified for payment of the non-compliance penalty, the penalty is not payable.

(6) Following expiry of the specified payment period, the appropriate authority may recover the non-compliance penalty as if payable under an order of the court.

(7) A non-compliance penalty paid to the appropriate authority under this paragraph must be paid into the Consolidated Fund.

Appeals

30.—(1) The person on whom the notice imposing the non-compliance penalty is served may appeal against it.

- (2) The grounds of appeal are—
 - (a) that the decision to serve the notice was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unfair or unreasonable for any reason;
 - (d) that the amount of the penalty is unreasonable;
 - (e) that the decision was wrong for another reason.

PART 5

Withdrawal and amendment of notices

Withdrawing or amending a notice

31. The appropriate authority may at any time in writing—

- (a) tynnu yn ôl hysbysiad cydymffurfio, hysbysiad adfer neu hysbysiad stop, neu ddiwygio'r camau a bennir yn yr hysbysiad hwnnw, er mwyn lleihau faint o waith sy'n angenrheidiol i gydymffurfio â'r hysbysiad,
- (b) tynnu yn ôl hysbysiad sy'n gosod cosb ariannol benodedig, neu
- (c) tynnu yn ôl hysbysiad sy'n gosod cosb ariannol amrywiadwy neu gosb am beidio â chydymffurfio, neu leihau swm y gosb a bennir yn yr hysbysiad.

RHAN 6

Adennill cost

Adennill costau gorfodaeth

32.—(1) Caiff yr awdurdod priodol gyflwyno hysbysiad adennill cost os yw unrhyw un neu ragor o'r amodau yn is-baragraff (3) wedi eu bodloni.

(2) Mae hysbysiad adennill cost yn hysbysiad sy'n ei gwneud yn ofynnol i'r person dalu costau'r awdurdod priodol.

(3) Yr amodau yw bod yr awdurdod priodol wedi—

- (a) cyflwyno i'r person hysbysiad cydymffurfio o dan baragraff 1,
- (b) cyflwyno i'r person hysbysiad adfer o dan baragraff 2,
- (c) cyflwyno i'r person gosb ariannol amrywiadwy o dan baragraff 4, neu
- (d) cyflwyno i'r person hysbysiad stop o dan baragraff 17.

(4) Yn is-baragraff (2), mae cyfeiriad at gostau yn gyfeiriad at unrhyw gostau sy'n ymwneud â llunio a rhoi hysbysiad cydymffurfio, hysbysiad adfer, cosb ariannol amrywiadwy neu hysbysiad stop, yn ôl y digwydd, ac mae'n cynnwys cyfeiriad at gostau unrhyw ymchwiliad cysylltiedig neu gyngor arbenigol (gan gynnwys cyngor cyfreithiol).

(5) Rhaid i'r hysbysiad adennill cost gynnwys gwybodaeth o ran—

- (a) swm y costau y mae rhaid eu talu,
- (b) o fewn pa gyfnod y mae rhaid talu, ni chaiff y cyfnod hwnnw fod yn llai na 28 o ddiwrnodau gan ddechrau â'r diwrnod y cyflwynir yr hysbysiad,
- (c) sut y mae rhaid talu,

- (a) withdraw a compliance notice, restoration notice or stop notice, or amend the steps specified in such a notice in order to reduce the amount of work necessary to comply with it,
- (b) withdraw a notice imposing a fixed monetary penalty, or
- (c) withdraw a notice imposing a variable monetary penalty or a non-compliance penalty, or reduce the amount of the penalty specified in the notice.

PART 6

Cost recovery

Recovery of enforcement costs

32.—(1) The appropriate authority may serve a cost recovery notice if any of the conditions in sub-paragraph (3) are met.

(2) A cost recovery notice is a notice requiring the person to pay the appropriate authority's costs.

(3) The conditions are that the appropriate authority has—

- (a) imposed on the person a compliance notice under paragraph 1,
- (b) imposed on the person a restoration notice under paragraph 2,
- (c) imposed on the person a variable monetary penalty under paragraph 4, or
- (d) served on the person a stop notice under paragraph 17.

(4) In sub-paragraph (2), the reference to costs is a reference to any costs relating to preparing and giving the compliance notice, restoration notice, variable monetary penalty, or stop notice, as the case may be, and includes a reference to the costs of any related investigation or expert advice (including legal advice).

(5) The cost recovery notice must include information as to—

- (a) the amount of the costs which must be paid,
- (b) the period in which payment must be paid, which must not be less than 28 days beginning with the day on which the notice is served,
- (c) how payment must be made,

- (d) canlyniadau methu â thalu o fewn y cyfnod talu a bennir, ac
 - (e) hawliau i apelio.
- (6) Ar ôl i'r cyfnod talu penodedig ddod i ben, caiff yr awdurdod priodol adennill y costau y cyfeirir atynt yn yr hysbysiad adennill cost fel pe baent yn daladwy o dan orchymyn gan y llys.
- (7) Caiff y person y cyflwynwyd yr hysbysiad adennill cost iddo apelio yn ei erbyn.
- (8) Y seiliau dros apelio yw—
- (a) bod y penderfyniad i gyflwyno'r hysbysiad yn seiliedig ar wall ffeithiol;
 - (b) bod y penderfyniad yn anghywir mewn cyfraith;
 - (c) bod y penderfyniad yn annheg neu'n afresymol am unrhyw reswm;
 - (d) bod swm y gosb yn afresymol;
 - (e) bod y penderfyniad yn anghywir am unrhyw reswm arall.

- (d) the consequences of failing to make payment within the specified payment period, and
 - (e) rights of appeal.
- (6) Following expiry of the specified payment period, the appropriate authority may recover the costs referred to in the cost recovery notice as if payable under an order of the court.
- (7) The person on whom the cost recovery notice is served may appeal against it.
- (8) The grounds of appeal are—
- (a) that the decision to serve the notice was based on an error of fact;
 - (b) that the decision was wrong in law;
 - (c) that the decision was unfair or unreasonable for any reason;
 - (d) that the amount of the penalty was unreasonable;
 - (e) that the decision was wrong for any other reason.

RHAN 7

Apelau

Apelau

33.—(1) Rhaid i unrhyw apêl o dan yr Atodlen hon gael ei gwneud i'r Tribiwnlys Haen Gyntaf.

(2) Mewn unrhyw apêl rhaid i'r Tribiwnlys benderfynu ar y safon profi.

(3) Mae apêl yn erbyn hysbysiad a gyflwynir o dan yr Atodlen hon (ac eithrio hysbysiad stop) yn atal dros dro effaith yr hysbysiad yr apelir yn ei erbyn hyd nes y caiff yr apêl ei phenderfynu neu ei thynnu yn ôl.

(4) Caiff y Tribiwnlys, mewn perthynas â gosod gofyniad neu gyflwyno hysbysiad—

- (a) tynnu yn ôl y gofyniad neu'r hysbysiad;
- (b) cadarnhau'r gofyniad neu'r hysbysiad;
- (c) amrywio'r gofyniad neu'r hysbysiad;
- (d) cymryd unrhyw gamau y gallai'r awdurdod priodol eu cymryd mewn perthynas â'r weithred neu'r anweithred sy'n arwain at y gofyniad neu'r hysbysiad;

PART 7

Appeals

Appeals

33.—(1) Any appeal under this Schedule must be made to the First-tier Tribunal.

(2) In any appeal the Tribunal must determine the standard of proof.

(3) An appeal against a notice served under this Schedule (other than a stop notice) suspends the effect of the notice appealed against until the appeal is determined or withdrawn.

(4) The Tribunal may, in relation to the imposition of a requirement or service of a notice—

- (a) withdraw the requirement or notice;
- (b) confirm the requirement or notice;
- (c) vary the requirement or notice;
- (d) take such steps as the appropriate authority could take in relation to the act or omission giving rise to the requirement or notice;

- (e) anfon y penderfyniad o ran pa un ai i gadarnhau'r gofyniad neu'r hysbysiad ai peidio, neu unrhyw fater sy'n ymwneud â'r penderfyniad hwnnw, at yr awdurdod priodol.

RHAN 8

Canllawiau a chyhoeddusrwydd

Canllawiau o ran defnyddio sancsiynau sifil

34.—(1) Rhaid i'r awdurdod priodol gyhoeddi canllawiau ynghylch ei ddefnydd o sancsiynau sifil.

(2) Rhaid i'r awdurdod priodol adolygu a diweddarau canllawiau pan fo'n briodol.

(3) Rhaid i'r awdurdod priodol roi sylw i'r canllawiau neu'r canllawiau a adolygwyd ac a ddiweddarwyd wrth arfer ei swyddogaethau.

(4) Yn achos canllawiau ynghylch hysbysiadau cydymffurfio, hysbysiadau adfer, cosbau ariannol penodedig, cosbau ariannol amrywiadwy, hysbysiadau stop a chosbau am beidio â chydymffurfio, rhaid i'r canllawiau gynnwys gwybodaeth o ran—

- (a) o dan ba amgylchiadau y mae sancsiwn sifil yn debygol o gael ei osod,
- (b) o dan ba amgylchiadau nad yw'n debygol o gael ei osod,
- (c) pan fo'n berthnasol, hawliau i wneud sylwadau a gwrthwynebiadau,
- (d) hawliau i apelio, ac
- (e) yn achos canllawiau ynghylch cosbau ariannol amrywiadwy a chosbau am beidio â chydymffurfio, y materion y mae'r awdurdod priodol yn debygol o'u hystyried wrth bennu swm y gosb (gan gynnwys adrodd yn wirfoddol am beidio â chydymffurfio gan unrhyw berson amdano ei hun).

(5) Yn achos canllawiau ynghylch ymgymeriadau gorfodi, rhaid i'r canllawiau gynnwys gwybodaeth o ran—

- (a) o dan ba amgylchiadau y mae'r awdurdod priodol yn debygol o dderbyn ymgymeriad gorfodi, a
- (b) o dan ba amgylchiadau nad yw'r awdurdod priodol yn debygol o dderbyn ymgymeriad gorfodi.

- (e) remit the decision whether to confirm the requirement or notice, or any other matter relating to that decision, to the appropriate authority.

PART 8

Guidance and publicity

Guidance as to the use of civil sanctions

34.—(1) The appropriate authority must publish guidance about its use of civil sanctions.

(2) The appropriate authority must revise and update guidance where appropriate.

(3) The appropriate authority must have regard to the guidance or revised and updated guidance in exercising its functions.

(4) In the case of guidance about compliance notices, restoration notices, fixed monetary penalties, variable monetary penalties, stop notices and non-compliance penalties, the guidance must contain information as to—

- (a) the circumstances in which the civil sanction is likely to be imposed,
- (b) the circumstances in which it is not likely to be imposed,
- (c) where relevant, rights to make representations and objections,
- (d) rights of appeal, and
- (e) in the case of guidance about variable monetary penalties and non-compliance penalties, the matters likely to be taken into account by the appropriate authority in determining the amount of the penalty (including voluntary reporting by a person of their own non-compliance).

(5) In the case of guidance about enforcement undertakings, the guidance must contain information as to—

- (a) the circumstances in which the appropriate authority is likely to accept an enforcement undertaking, and
- (b) the circumstances in which the appropriate authority is not likely to accept an enforcement undertaking.

Ymgynghori ar ganllawiau

35. Rhaid i'r awdurdod priodol ymgynghori ag unrhyw bersonau y mae'r awdurdod priodol yn ystyried ei bod yn briodol ymgynghori â hwy cyn cyhoeddi—

- (a) unrhyw ganllawiau, neu
- (b) unrhyw ddiwygiadau neu ddiweddariadau sylweddol i ganllawiau sydd eisoes wedi eu cyhoeddi.

Cyhoeddi camau gorfodi

36.—(1) Rhaid i'r awdurdod priodol gyhoeddi yn flynyddol—

- (a) yr achosion y gosodwyd sancsiynau sifil ynddynt;
- (b) pan fo sancsiwn sifil yn hysbysiad cydymffurfio, hysbysiad adfer neu gosb ariannol amrywiadwy, yr achosion y derbyniwyd ymgymeriad trydydd parti ynddynt;
- (c) yr achosion y derbyniwyd ymgymeriad gorfodi ynddynt.

(2) Yn is-baragraff (1)(a), nid yw'r cyfeiriad at achosion y gosodwyd sancsiynau sifil ynddynt yn cynnwys achosion pan osodwyd sancsiwn ond a gafodd ei wrthdroi ar apêl.

(3) Nid yw'r paragraff hwn yn gymwys mewn achosion pan fo'r awdurdod priodol o'r farn y byddai cyhoeddi yn amhriodol.”

Consultation on guidance

35. The appropriate authority must consult such persons as it considers appropriate before publishing—

- (a) any guidance, or
- (b) any significant revisions or updates to guidance which has already been published.

Publication of enforcement action

36.—(1) The appropriate authority must publish annually—

- (a) the cases in which civil sanctions have been imposed;
- (b) where the civil sanction is a compliance notice, a restoration notice or variable monetary penalty, the cases in which a third party undertaking has been accepted;
- (c) the cases in which an enforcement undertaking has been accepted.

(2) In sub-paragraph (1)(a), the reference to cases in which civil sanctions have been imposed does not include cases where a sanction has been imposed but overturned on appeal.

(3) This paragraph does not apply in cases where the appropriate authority considers that publication would be inappropriate.”

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