

OFFERYNNAU STATUDOL CYMRU

2020 Rhif 1318 (Cy. 290)

CYNLLUNIO GWLAD A THREF, CYMRU

**Gorchymyn Cynllunio Gwlad a Thref (Datblygu
Cyffredinol a Ganiateir) (Diwygio) (Rhif 3) (Cymru) 2020**

<i>Gwnaed</i>	- - - -	<i>19 Tachwedd 2020</i>
<i>Gosodwyd gerbron Senedd</i>		
<i>Cymru</i>	- - - -	<i>20 Tachwedd 2020</i>
<i>Yn dod i rym</i>	- -	<i>21 Rhagfyr 2020</i>

Mae Gweinidogion Cymru yn gwneud y Gorchymyn a ganlyn drwy arfer y pwerau a roddir gan adrannau 59, 60(1) a (3), 61(1) a 333(4B) a (7) o Ddeddf Cynllunio Gwlad a Thref 1990(1) ac a freiniwyd bellach ynddynt hwy(2) ac, mewn perthynas ag erthygl 4(8), gan baragraff 1A o Atodlen 2 i Ddeddf y Cymunedau Ewropeaidd 1972(3).

Mae'r Gorchymyn hwn yn gwneud darpariaeth at ddiben a grybwyllir yn adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 ac mae'n ymddangos i Weinidogion Cymru ei bod yn hwylus i'r cyfeiriadau yn y Gorchymyn hwn at Reoliad Gweithredu'r Comisiwn (EU) 2020/1070(4) ar bennu priodweddau pwyntiau mynediad di-wifr ardal fach yn unol â pharagraff 2 o Erthygl 57 o Gyfarwyddeb EU 2018/1972 Senedd Ewrop a'r Cyngor sy'n sefydlu'r Cod Cyfathrebiadau Electronig Ewropeaidd(5), gael eu dehongli fel cyfeiriadau at yr offeryn hwnnw fel y'i diwygir o bryd i'w gilydd.

- (1) [1990 p. 8](#). Mewnosodwyd adran 59(4) gan adran 55 o Ddeddf Cynllunio (Cymru) 2015 ([dccc 4](#)) ("Deddf 2015"), a pharagraff 5 o Atodlen 7 iddi. Amnewidiwyd adran 333(4B) gan adran 55 o Ddeddf 2015 a pharagraff 6(3) o Atodlen 7 iddi. Mae diwygiadau eraill nad ydynt yn berthnasol i'r offeryn hwn.
- (2) Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan adrannau 59, 60(1), 61(1) a (3) a 333(7), i'r graddau y maent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 ([O.S. 1999/672](#)) ac Atodlen 1 iddo: *gweler* y cofnod yn Atodlen 1 ar gyfer Deddf Cynllunio Gwlad a Thref 1990 fel y'i hamnewidiwyd gan erthygl 4 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 2000 ([O.S. 2000/253](#)) ac Atodlen 3 iddo. Yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 ([p. 32](#)), a pharagraffau 30 a 32 o Atodlen 11 iddi, trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weinidogion Cymru.
- (3) Diddymwyd Deddf y Cymunedau Ewropeaidd 1972 ("Deddf 1972") gan adran 1 o Ddeddf yr Undeb Ewropeaidd (Ymadael) 2018 ([p. 16](#)) ("Deddf 2018") gan gael 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 hyd 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). Mewnosodwyd paragraff 1A o Atodlen 2 i Ddeddf 1972 gan adran 28 o Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006 ([p. 51](#)) ac fe'i diwygiwyd gan adran 3(3) o Ddeddf yr Undeb Ewropeaidd (Diwygio) 2008 ([p. 7](#)), a Rhan 1 o'r Atodlen iddi, ac [O.S. 2007/1388](#).
- (4) OJ Rhif L 234, 21.7.2020, t. 11.
- (5) OJ Rhif L 321, 17.12.2018, t. 36.

Enwi, cychwyn a chymhwys

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) (Diwygio) (Rhif 3) (Cymru) 2020 a daw i rym ar 21 Rhagfyr 2020.

(2) Mae'r Gorchymyn hwn yn gymwys o ran Cymru.

Diwygio Gorchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) 1995

2. Mae Gorchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) 1995(6) wedi ei ddiwygio fel a nodir yn erthyglau 3 i 5.

Mannau tyfu cymunedol

3. Ar ôl Rhan 6 o Atodlen 2 (adeiladau a gweithrediadau amaethyddol) mewnosoder—

“PART 6A

Community Growing Spaces

Class A

A. Permitted development

Development consisting of the erection, extension, alteration or replacement of storage sheds and greenhouses on community growing spaces.

A.1 Development not permitted

Development is not permitted by Class A if—

- (a) the development would be carried out on a community growing space of less than 62 square metres in area;
- (b) on a community growing space of less than 125 square metres in area, it would result in the presence of more than either—
 - (i) one storage shed; or
 - (ii) one greenhouse;
- (c) on a community growing space of 125 square metres or more in area, it would result in the presence of more than one storage shed and one greenhouse;
- (d) the ground area of the storage shed or greenhouse would exceed 6 square metres when measured externally;
- (e) any part of the storage shed or greenhouse would exceed 2.2 metres in height;
- (f) the development would be on article 1(5) land;
- (g) the development would be on land within a World Heritage Site;
- (h) the development would be within the curtilage of a listed building; or
- (i) the development would be within—
 - (i) 8 metres of a non-tidal main river (or within 8 metres of any flood defence structure or culvert on that river); or

(6) O.S. 1995/418. Diwygiwyd erthygl 4 gan O.S. 1996/528, O.S. 2006/124 (Cy. 17), O.S. 2006/1386 (Cy. 136) ac O.S. 2013/1776 (Cy. 177). Amnewidiwyd Rhan 24 gan O.S. 2019/330 (Cy. 80). Mae offerynnau diwygio eraill ond nid yw'r un ohonynt yn berthnasol.

- (ii) within 16 metres of a tidal main river (or within 16 metres of any flood defence structure or culvert on that river).

A.2 Interpretation of Class A

For the purposes of Class A—

“community growing space” means—

- (a) an allotment including an allotment garden within the meaning of the Allotments Act 1922(7); or
- (b) any other land used or intended for use—
- (i) by one or more communities,
- (ii) wholly or mainly for the cultivation of vegetables, fruit, herbs or flowers, and
- (iii) otherwise than with a view to making a profit;

“culvert” means a covered channel or pipe which prevents the obstruction of a main river or drainage path by an artificial construction;

“flood defence structure” means any permanent works constructed, operated or maintained by the Natural Resources Body for Wales, for the purposes of managing flood risk;

“greenhouse” means a structure such as a glasshouse or polytunnel in which vegetables, fruit, herbs or flowers are cultivated under cover in an enclosed space, but does not include a structure in which livestock are kept;

“main river” has the meaning given in section 113(1) of the Water Resources Act 1991(8);

“non-tidal main river” means any part of a main river that is not a tidal main river;

“normal tidal limit” means the normal tidal limit as marked on the Ordnance Maps (1:25,000 scale);

“tidal main river” means that part of a main river downstream of the normal tidal limit.”

Datblygu gan weithredwyr cod cyfathrebiadau electronig

4.—(1) Yn erthygl 4(3)—

- (a) ar ôl is-baragraff (aa) mewnosoder—

“(aaa) development permitted by Part 24 which consists of the installation, alteration or replacement of a Regulation 2020/1070 small cell system;”;

- (b) yn is-baragraff (c), ar ôl “provides” mewnosoder “but this is subject to paragraph (3A)”.

(2) Ar ôl erthygl 4(3) mewnosoder—

“(3A) A direction under paragraph (1) or (2) may not affect the carrying out of development consisting of the installation, alteration or replacement of a Regulation 2020/1070 small cell system.”

(3) Yn erthygl 4(6), yn y lle priodol mewnosoder—

““Regulation 2020/1070 small cell system” has the same meaning as in Part 24 of Schedule 2;”.

(4) Mae Rhan 24 o Atodlen 2 wedi ei diwygio fel a nodir ym mharagraffau (5) i (8).

(5) Ym mharagraff A.1—

(7) 1922 p. 51.

(8) 1991 p. 57. Diwygiwyd y diffiniad o “main river” yn adran 113(1) gan adran 59(1) a (3) o Ddeddf Dŵr 2014 (p. 21). Mae diwygiadau eraill i adran 113(1) ond nid yw'r un ohonynt yn berthnasol i'r Gorchymyn hwn.

- (a) yn is-baragraff (h), yn lle “paragraphs” rhodder “sub-paragraphs” ac yn lle “paragraph” rhodder “sub-paragraph”;
- (b) yn is-baragraff (j)—
- “(i) ym mharagraff (i), yn lle “small cell antennas” rhodder “Regulation 2020/1070 small cell systems or small cell systems”;
 - (ii) yn lle paragraff (iii) rhodder—
 - “(iii) in the case of antennas other than dish antennas, Regulation 2020/1070 small cell systems or small cell systems, the development would result in the presence on the building or structure of—
 - (aa) more than four antenna systems; or
 - (bb) any antenna system operated by more than four electronic communications code operators; or”;
- (c) yn lle is-baragraff (k)(ii) rhodder—
- “(ii) in the case of antennas other than dish antennas, Regulation 2020/1070 small cell systems or small cell systems, the development would result in the presence on the building or structure of—
 - (aa) more than five antenna systems; or
 - (bb) any antenna system operated by more than four electronic communications code operators; or”;
- (d) yn lle is-baragraff (l) rhodder—
- “(1) in the case of development on any protected land it would consist of—
 - (i) the installation or alteration of an antenna other than a Regulation 2020/1070 small cell system or a small cell system, or of any apparatus which includes or is intended for the support of such an antenna; or
 - (ii) the replacement of an antenna or such apparatus by an antenna other than a Regulation 2020/1070 small cell system or a small cell system, or apparatus which differs from that which is being replaced,
 unless the development is carried out in an emergency or is development described in the introductory words to sub-paragraph (m) and which is allowed by the paragraphs which follow those introductory words;”;
- (e) yn is-baragraff (m)(ii), ar ôl “dish antennas” mewnosoder “Regulation 2020/1070 small cell systems or small cell systems,”;
- (f) yn lle is-baragraffau (q) i (t) rhodder—
- “(q) in the case of the installation, alteration or replacement on a dwellinghouse or within the curtilage of a dwellinghouse of any electronic communications apparatus, that apparatus—
 - (i) is not a Regulation 2020/1070 small cell system or a small cell system;
 - (ii) being a Regulation 2020/1070 small cell system or a small cell system, is or would be on any protected land or within a World Heritage Site, unless the development is carried out in an emergency or is development which is allowed by sub-paragraph (r);
 - (iii) being a small cell system, would result in the presence on that dwellinghouse or within the curtilage of that dwellinghouse of more than two small cell systems; or

- (iv) being a small cell system, is to be located on a roof or on a chimney so that the highest part of the antenna would exceed in height the highest part of that roof or chimney respectively;
- (r) in the case of the installation, alteration or replacement on protected land or within a World Heritage Site of a Regulation 2020/1070 small cell system or a small cell system on a dwellinghouse or within the curtilage of a dwellinghouse, the antenna—
 - (i) is to be located—
 - (aa) on a chimney;
 - (bb) on a building which exceeds 15 metres in height;
 - (cc) on a wall or roof slope which fronts a highway; or
 - (dd) on a roof, other than a roof slope which fronts a highway, so that the highest part of the antenna would exceed in height the highest part of that roof;
 - (ii) is or would be on protected land (other than a conservation area⁽⁹⁾) and would result in the presence on that dwellinghouse or within the curtilage of that dwellinghouse of more than either—
 - (aa) two Regulation 2020/1070 small cell systems;
 - (bb) two small cell systems; or
 - (cc) one Regulation 2020/1070 small cell system and one small cell system; or
 - (iii) is or would be in a conservation area or within a World Heritage site and would result in the presence on that dwellinghouse or within the curtilage of that dwellinghouse of more than one Regulation 2020/1070 small cell system or one small cell system;
- (s) in the case of the installation, alteration or replacement of a Regulation 2020/1070 small cell system or a small cell system on a building or other structure, which is not a dwellinghouse or within the curtilage of a dwellinghouse, in a conservation area or World Heritage Site—
 - (i) unless the development is carried out in an emergency;
 - (ii) the installation of a Regulation 2020/1070 small cell system or a small cell system would result in the presence on the building or other structure of more than either—
 - (aa) two Regulation 2020/1070 small cell systems;
 - (bb) two small cell systems; or
 - (cc) one Regulation 2020/1070 small cell system and one small cell system; or
 - (iii) the replacement or alteration of a Regulation 2020/1070 small cell system or a small cell system would result in the presence on the building or other structure of more than either—
 - (aa) two Regulation 2020/1070 small cell systems;
 - (bb) two small cell systems;
 - (cc) one Regulation 2020/1070 small cell system and one small cell system; or

(9) Gweler adran 336(1) o Ddeddf Cynllunio Gwlad a Thref 1990 am y diffiniad o “conservation area”.

(dd) if greater, the number of Regulation 2020 small cell systems or small cell systems on the building or other structure before alteration or replacement of the antenna.”

(6) Ym mharagraff A.3(4)(c)—

(a) yn lle “small cell antennas” rhodder “Regulation 2020/1070 small cell systems or small cell systems”, a

(b) hepgorer y geiriau o “as expressed in” hyd at y diwedd.

(7) Ym mharagraff A.4(1)—

(a) hepgorer y diffiniadau o “small antenna” a “small cell antenna”;

(b) yn y lle priodol mewnosoder—

““Commission Regulation 2020/1070” means Commission Implementing Regulation (EU) 2020/1070 on specifying the characteristics of small-area wireless access points pursuant to Article 57 paragraph 2 of the Directive;”;

““the Directive” means Directive (EU) 2018/1972 of the European Parliament and Council establishing the European Electronic Communications Code (recast);”;

““Regulation 2020/1070 small cell system” means a small cell system—

(a) to which Commission Regulation 2020/1070 applies;

(b) which complies with the requirements of the European Standard laid down at point B of the Annex to Commission Regulation 2020/1070; and

(c) meets the conditions set out in Point A of the Annex to Commission Regulation 2020/1070;”;

““small cell system” means an antenna which may be referred to as a femtocell, picocell, metrocell or microcell antenna, together with any ancillary apparatus, which—

(a) operates on a point to multi point or area basis in connection with an electronic communications service;

(b) does not, in any two dimensional measurement, have a surface area exceeding 5000 square centimetres; and

(c) does not have a volume exceeding 50,000 cubic centimetres;

but does not include a Regulation 2020/1070 small cell system and any calculation for the purposes of paragraph (b) or (c) includes any power supply unit or casing, but excludes any mounting, fixing, bracket or other support structure;”.

(8) Ar ôl paragraff A.4(2) mewnosoder—

“(3) Any reference in this Order to Commission Regulation 2020/1070 is a reference to that Regulation as amended from time to time.”

Diwygiadau i Ran 1 (datblygu o fewn cwrtil tŷ annedd) a Rhan 25 (datblygiad telathrebu arall) o Atodlen 2

5.—(1) Yn Rhan 1 o Atodlen 2, ym mharagraff H.4—

(a) yn lle “small antenna” rhodder “small cell system”;

(b) ar y diwedd mewnosoder “, but excludes Regulation 2020/1070 small cell systems to the extent that they are permitted by paragraph A.1(q) of Part 24”.

(2) Yn Rhan 25 o Atodlen 2—

(a) ym mharagraff A.3(b)—

- (i) yn lle “small antenna” rhodder “small cell system”;
 - (ii) ar y diwedd mewnosoder “, but excludes Regulation 2010/1070 small cell systems to the extent that they are permitted by paragraph A.1(q) of Part 24”;
- (b) ym mharagraff B.5—
- (i) yn lle “small antenna” rhodder “small cell system”;
 - (ii) ar y diwedd mewnosoder “, but excludes Regulation 2010/1070 small cell systems to the extent that they are permitted by paragraph A.1(q) of Part 24”.

19th November 2020

Julie James
Y Gweinidog Tai a Llywodraeth Leol, un o
Weinidogion Cymru

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

Mae'r Gorchymyn hwn yn diwygio Gorchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) 1995 ("y GDCG").

Mae erthygl 3 o'r GDCG, ac Atodlen 2 iddo, yn rhoi hawliau datblygu a ganiateir mewn cysylltiad â datblygu penodol. Pan roddir yr hawliau hynny, nid yw cais am ganiatâd cynllunio yn ofynnol.

Mae erthygl 3 o'r Gorchymyn hwn yn diwygio Atodlen 2 i'r GDCG drwy fewnosod Rhan 6A newydd (mannau tyfu cymunedol) er mwyn caniatáu codi, estyn, addasu neu ailosod cytiau storio a thai gwydr ar fannau tyfu cymunedol o 62 o fetrau sgwâr o leiaf. Mae'r datblygu a ganiateir yn ddarostyngedig i gyfyngiadau sydd hefyd wedi eu nodi yn y Rhan 6A newydd.

Mae erthygl 4(1), (2), (3), (5)(b) i (f), (7) ac (8) o'r Gorchymyn hwn yn gweithredu Erthygl 57(1) o Gyfarwydeb (EU) 2018/1972 Senedd Ewrop a'r Cyngor sy'n sefydlu'r Cod Cyfathrebiadau Electronig Ewropeaidd (ail-lunio) (OJ Rhif L 321, 17.12.2018, t. 36) drwy ddiwygio erthygl 4 o'r GDCG, a Rhan 24 (gweithredwyr cod cyfathrebiadau electronig) o Atodlen 2 iddo.

Mae'r diwygiadau i Ran 24 o Atodlen 2 i'r GDCG yn—

- (a) lleihau'r cyfyngiadau ar ddatblygu sy'n cynnwys gosod, addasu neu ailosod pob system cell fach, a
- (b) dileu cyfyngiadau ar ddatblygu sy'n cynnwys gosod, addasu neu ailosod systemau cell fach Rheoliad 2020/1070 y tu allan i dir a warchodir neu Safleoedd Treftadaeth y Byd.

Y prif newidiadau yw—

- (a) hepgor y diffiniadau o "small antenna" a "small cell antenna" (erthygl 4(7)(a)),
- (b) mewnosod diffiniad newydd o "small cell system" yn lle'r diffiniad blaenorol o "small cell antenna" (erthygl 4(7)(b)),
- (c) mewnosod diffiniad o "Regulation 2020/1070 small cell system" sef system cell fach y mae Rheoliad Gweithredu'r Comisiwn (EU) 2020/1070 (OJ Rhif L 234, 21.7.2020, t. 11) yn gymwys iddi ac sy'n bodloni'r amodau a'r gofynion a nodir yn y Rheoliad hwnnw (erthygl 4(7)(b)),
- (d) darparu bod cyfeiriadau at Reoliad Gweithredu'r Comisiwn (EU) 2020/1070 yn newidiadwy (erthygl 4(8)),
- (e) estyn hawliau datblygu a ganiateir mewn perthynas â datblygu sy'n cynnwys gosod, addasu neu ailosod system cell fach neu system cell fach Rheoliad 2020/1070 (erthygl 4(5)(d) i (f)), ac
- (f) eithrio systemau cell fach a systemau cell fach Rheoliad 2020/1070 o gyfrifiadau nifer y systemau antena y caniateir eu gosod ar adeiladau a strwythurau penodol a nifer y gweithredwyr cod cyfathrebiadau electronig a gaiff weithredu systemau antena ar adeiladau a strwythurau o'r fath (erthygl 4(5)(b) ac (c)).

Mae'r Gorchymyn hwn hefyd yn diwygio erthygl 4 o'r GDCG fel na chaiff awdurdod cynllunio lleol na Gweinidogion Cymru ddyroddi cyfarwyddyd yn cyfyngu ar gwmpas hawliau datblygu a ganiateir i'r graddau y mae'r datblygiad yn cynnwys gosod, addasu neu ailosod system cell fach Rheoliad 2020/1070 (erthygl 4(1), (2) a (3)).

Mae erthygl 4(5)(a), (b) ac (c) a (6) o'r Gorchymyn hwn yn gwneud y newidiadau pellach a ganlyn i Ran 24 o Atodlen 2—

- (a) mân newidiadau drafftio (erthygl 4(5)(a)),
- (b) cynyddu nifer y systemau antena y caniateir eu gosod ar adeiladau a strwythurau penodol o dri i bedwar (erthygl 4(5)(b) ac (c)),
- (c) cynyddu nifer y gweithredwyr cod cyfathrebiadau electronig a gaiff weithredu systemau antena ar adeiladau a strwythurau penodol o dri i bedwar (erthygl 4(5)(b) ac (c)), a
- (d) dileu cyfeiriad at Argymhelliad gan Gyngor yr UE a newid cyfeiriad at antena cell fach (erthygl 4(6)).

Mae erthygl 5 o'r Gorchymyn hwn yn diwygio paragraff H.4 o Ran 1 o Atodlen 2 i'r GDCG a pharagraffau A.3(b) a B.5 o Ran 25 o Atodlen 2 i'r GDCG er mwyn—

- (a) rhoi “small cell systems” yn lle “small antenna”, a
- (b) eithrio systemau cell fach Rheoliad 2020/1070, a ganiateir gan y paragraff A.1(q) newydd o Ran 24 o Atodlen 2 i'r GDCG, o gyfrifiad nifer yr antenau a ganiateir gan baragraff H.1(a) o Ran 1 o Atodlen 2 i'r GDCG a chan baragraffau A.1(d) a B.1(d) o Ran 25 o'r Atodlen honno.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Gorchymyn hwn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Gorchymyn hwn. Gellir cael copi oddi wrth: Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.