



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2023 Rhif 1304 (Cy. 234)

2023 No. 1304 (W. 234)

**ADEILADU AC ADEILADAU,
CYMRU**

**BUILDING AND BUILDINGS,
WALES**

Rheoliadau Adeiladu (Y Proffesiwn
Rheolaeth Adeiladu) (Cofrestru,
Sancsiynau ac Apelau) (Cymru)
2023

The Building (Building Control
Profession) (Registration, Sanctions
and Appeals) (Wales) Regulations
2023

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn rhagnodi cyfnodau ar gyfer cofrestru arolygydd cofrestredig adeiladu a chymeradwywr cofrestredig rheolaeth adeiladu, yn nodi'r sancsiynau ar gyfer cymeradwywr cofrestredig rheolaeth adeiladu ac yn ymdrin ag apelau ynghylch penderfyniad sydd wedi ei wneud gan Weinidogion Cymru, sef yr awdurdod rheoleiddio o ran Cymru, o dan Ran 2A o Ddeddf Adeiladu 1984 ("y Ddeddf").

Mae rheoliad 2 yn rhagnodi'r cyfnod ar gyfer cofrestru arolygydd cofrestredig adeiladu.

Mae rheoliad 3 yn rhagnodi'r cyfnod ar gyfer cofrestru cymeradwywr cofrestredig rheolaeth adeiladu.

Mae rheoliad 4 yn nodi, pan fo Gweinidogion Cymru yn gwneud gorchymyn disgyblu, fod rhaid iddynt, cyn gynted ag y bo'n rhesymol ymarferol, roi copi o'r gorchymyn disgyblu i bob awdurdod lleol yng Nghymru pan fo cofrestriad cymeradwywr cofrestredig rheolaeth adeiladu wedi ei amrywio, wedi ei atal am gyfnod penodedig, neu wedi ei ganslo o ddyddiad penodedig.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe periods for registration of a registered building inspector and registered building control approver, set out the sanctions for registered building control approvers and deal with appeals of a decision made by the Welsh Ministers, who are the regulatory authority in relation to Wales, under Part 2A of the Building Act 1984 ("the Act").

Regulation 2 prescribes the period for registration of a registered building inspector.

Regulation 3 prescribes the period for registration of a registered building control approver.

Regulation 4 sets out that where the Welsh Ministers make a disciplinary order they must as soon as reasonably practicable give a copy of the disciplinary order to each local authority in Wales where there has been a variation of a registered building control approver's registration, a suspension of registration for a specified period, or a cancellation of registration from a specified date.

Mae rheoliad 5 yn darparu, pan fo Gweinidogion Cymru yn gwneud neu'n dirymu gorchymyn o dan adran 58V o'r Ddeddf, fod rhaid iddynt, cyn gynted ag y bo'n rhesymol ymarferol, roi copi o'r gorchymyn atal dros dro interim i bob awdurdod lleol yng Nghymru pan fo Gweinidogion Cymru yn ystyried bod y toriad a amheuir mor ddifrifol fel eu bod, os ydynt yn penderfynu bod y toriad wedi digwydd, yn debygol o wneud gorchymyn o dan adran 58U(2)(d) o'r Ddeddf yn canslo cofrestrriad y person.

Mae rheoliad 6 yn ymwneud ag apelio penderfyniad a wneir gan Weinidogion Cymru o dan Ran 2A o'r Ddeddf. Mae rheoliad 6(1) yn nodi, os gwneir apêl, fod rhaid iddi gael ei gwneud drwy gŵyn i'r llys ynadon. Mae rheoliad 6(2) yn nodi'r seiliau dros apelio. Mae rheoliad 6(3) yn nodi'r terfyn amser ar gyfer apelio. Mae rheoliad 6(4) yn nodi'r rhwymedïau sydd ar gael i'r llys ynadon ar apêl.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol 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 fe'i cyhoeddir ar www.llyw.cymru.

Regulation 5 provides that where the Welsh Ministers make or revoke an order under section 58V of the Act they must as soon as reasonably practicable give a copy of the interim suspension order to each local authority in Wales where the Welsh Ministers consider that the suspected contravention is so serious that, if the Welsh Ministers determine that the contravention has occurred, they are likely to make an order under section 58U(2)(d) of the Act cancelling the person's registration.

Regulation 6 relates to appealing a decision made by the Welsh Ministers under Part 2A of the Act. Regulation 6(1) sets out that, if an appeal is made, it must be made by way of complaint to the magistrates' court. Regulation 6(2) sets out the grounds of appeal. Regulation 6(3) sets out the appeal time limit. Regulation 6(4) sets out the remedies available to the magistrates' court on appeal.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from Welsh Government, Cathays Park, Cardiff, CF10 3NQ and is published on www.gov.wales.

2023 Rhif 1304 (Cy. 234)

**ADEILADU AC ADEILADAU,
CYMRU**

**Rheoliadau Adeiladu (Y Proffesiwn
Rheolaeth Adeiladu) (Cofrestru,
Sancsiynau ac Apelau) (Cymru)
2023**

Gwnaed *1 Rhagfyr 2023*
Gosodwyd *gerbron* *Senedd*
Cymru *5 Rhagfyr 2023*
Yn dod i rym *1 Ionawr 2024*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir iddynt gan adrannau 1, 58C(5), 58O(4), 58U(4)(b)(ii) a 58V(4)(b)(ii) o Ddeddf Adeiladu 1984(1), a pharagraff 11 o Atodlen 1 iddi, yn gwneud y Rheoliadau a ganlyn.

Mae Gweinidogion Cymru, mewn cysylltiad â'r Rheoliadau, yn unol ag adran 14(7)(2) o Ddeddf 1984, wedi ymgynghori â Phwyllgor Cynghori Cymru ar Reoliadau Adeiladu ac unrhyw bersonau eraill y mae Gweinidogion Cymru yn ystyried eu bod yn briodol.

Enwi, cymhwyso, dod i rym a dehongli

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Adeiladu (Y Proffesiwn Rheolaeth Adeiladu) (Cofrestru, Sancsiynau ac Apelau) (Cymru) 2023.

- (1) 1984 p. 55. Diwygiwyd adran 1 gan adran 1 o Ddeddf Adeiladu Cynaliadwy a Diogel 2004 (p. 22) a pharagraff 2 o Atodlen 5 i Ddeddf Diogelwch Adeiladu 2022 p. 30 ("Deddf 2022") sydd, ymhlith pethau eraill, yn rhoi "appropriate national authority" yn lle cyfeiriadau at yr Ysgrifennydd Gwladol yn adran 1(1) o Ddeddf Adeiladu 1984 ("Deddf 1984"). Ystyr "appropriate national authority" o ran Cymru yw un o Weinidogion Cymru (gweler adran 126 o Ddeddf 1984). Mewnodsodwyd adrannau 58C(5), 58O(4), 58U(4)(b)(ii), 58V(4)(b)(ii), 58Z4(5) a 58Z5(7) gan adran 42 o Ddeddf 2022.
- (2) Diwygiwyd adran 14(7) gan baragraff 17(3) o Atodlen 5 i Ddeddf 2022.

2023 No. 1304 (W. 234)

**BUILDING AND BUILDINGS,
WALES**

**The Building (Building Control
Profession) (Registration, Sanctions
and Appeals) (Wales) Regulations
2023**

Made *1 December 2023*
Laid before Senedd Cymru *5 December 2023*
Coming into force *1 January 2024*

The Welsh Ministers, in exercise of the powers conferred on them by sections 1, 58C(5), 58O(4), 58U(4)(b)(ii), 58V(4)(b)(ii) of, and paragraph 11 of Schedule 1 to, the Building Act 1984(1), make the following Regulations.

The Welsh Ministers have, in respect of the Regulations, in accordance with section 14(7)(2) of the 1984 Act, consulted the Building Regulations Advisory Committee for Wales and any other person that the Welsh Ministers consider appropriate.

Title, application, coming into force and interpretation

1.—(1) The title of these Regulations is the Building (Building Control Profession) (Registration, Sanctions and Appeals) (Wales) Regulations 2023.

- (1) 1984 c. 55. Section 1 was amended by section 1 of the Sustainable and Secure Buildings Act 2004 (c. 22) and paragraph 2 of Schedule 5 to the Building Safety Act 2022 c. 30 ("the 2022 Act") which, amongst other things, substitutes references to the Secretary of State with "appropriate national authority" in section 1(1) of the Building Act 1984 ("the 1984 Act"). "Appropriate national authority" in relation to Wales means the Welsh Minister (see section 126 of the 1984 Act). Sections 58C(5), 58O(4), 58U(4)(b)(ii), 58V(4)(b)(ii), 58Z4(5) and 58Z5(7) were inserted by section 42 of the 2022 Act.
- (2) Section 14(7) was amended by paragraph 17(3) of Schedule 5 to the 2022 Act.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

(3) Daw'r Rheoliadau hyn i rym ar 1 Ionawr 2024.

(4) Yn y Rheoliadau hyn—

- (a) ystyr “y Ddeddf” yw Deddf Adeiladu 1984;
- (b) ystyr “y Rheoliadau Adeiladu” yw Rheoliadau Adeiladu 2010(1);
- (c) ystyr “diwrnodau perthnasol” yw unrhyw ddiwrnod ac eithrio Dydd Nadolig, Dydd Gwener y Grogllith neu ddiwrnod sy'n wyl banc yng Nghymru a Lloegr o dan adran 1 o Ddeddf Bancio a Thrafodion Ariannol 1971 (2).

(5) Yn y Rheoliadau hyn, oni nodir fel arall, mae i'r geiriau a'r ymadroddion Cymraeg a ganlyn yr un ystyr â'r geiriau a'r ymadroddion Saesneg cyfatebol a ddefnyddir yn y Ddeddf—

- (a) awdurdod rheolaeth adeiladu (“building control authority”) (gweler adran 121A o'r Ddeddf honno);
- (b) cymeradwywr cofrestredig rheolaeth adeiladu (“registered building control approver”) (gweler adran 58N o'r Ddeddf honno);
- (c) arolygydd cofrestredig adeiladu (“registered building inspector”) (gweler adran 58B o'r Ddeddf honno).

Cofrestru arolygwyr adeiladu

2. At ddibenion adran 58C(5) o'r Ddeddf, y cyfnod rhagnodedig ar gyfer cofrestru arolygydd cofrestredig adeiladu yw pedair blynedd sy'n dechrau â'r diwrnod y mae'r cofrestriad yn cael effaith.

Cofrestru cymeradwywyr rheolaeth adeiladu

3. At ddibenion adran 58O(4) o'r Ddeddf, y cyfnod rhagnodedig ar gyfer cofrestru cymeradwywr cofrestredig rheolaeth adeiladu yw pum mlynedd sy'n dechrau â'r diwrnod y mae'r cofrestriad yn cael effaith.

(2) These Regulations apply in relation to Wales.

(3) These Regulations come into force on 1 January 2024.

(4) In these Regulations—

- (a) “the Act” means the Building Act 1984;
- (b) “the Building Regulations” means the Building Regulations 2010(1);
- (c) “relevant days” means any day excluding Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971(2).

(5) In these Regulations, unless otherwise indicated, the following words and expressions have the same meaning as in the Act—

- (a) “building control authority” (see section 121A of that Act);
- (b) “registered building control approver” (see section 58N of that Act);
- (c) “registered building inspector” (see section 58B of that Act).

Register of building inspectors

2. For the purposes of section 58C(5) of the Act, the prescribed period for registration of a registered building inspector is four years beginning with the day on which the registration has effect.

Register of building control approvers

3. For the purposes of section 58O(4) of the Act, the prescribed period for registration of a registered building control approver is five years beginning with the day on which the registration has effect.

(1) O.S. 2010/2214, a ddiwygiwyd gan O.S. 2013/747 (Cy. 89), 2013/2621 (Cy. 258), 2014/110 (Cy. 10), 2015/1486 (Cy. 165), 2016/611 (Cy. 168), 2018/558 (Cy. 97); mae offerynnau diwygio eraill ond nid yw'r un ohonynt yn berthnasol.

(2) 1971 p. 80.

(1) S.I. 2010/2214, amended by S.I. 2013/747 (W. 89), 2013/2621 (W. 258), 2014/110 (W. 10), 2015/1486 (W. 165), 2016/611 (W. 168), 2018/558 (W. 97); there are other amending instruments but none are relevant.

(2) 1971 c. 80.

Torri rheolau ymddygiad proffesiynol

4. At ddibenion adran 58U(4)(b)(ii) o'r Ddeddf, pan fo Gweinidogion Cymru(1) yn gwneud gorchymyn disgyblu(2) mewn perthynas â chymeradwywr cofrestredig rheolaeth adeiladu, rhaid iddynt, cyn gynted ag y bo'n rhesymol ymarferol, roi copi o'r gorchymyn disgyblu i bob awdurdod lleol yng Nghymru yn achos—

- (a) amrywio cofrestriad mewn ffordd a bennir yn y gorchymyn,
- (b) atal cofrestriad dros dro am y cyfnod a bennir yn y gorchymyn, neu
- (c) canslo cofrestriad o'r dyddiad a bennir yn y gorchymyn.

Atal dros dro interim am doriad difrifol a amheuir

5. At ddibenion adran 58V(4)(b)(ii) o'r Ddeddf, pan fo Gweinidogion Cymru yn gwneud (neu'n dirymu) gorchymyn o dan adran 58V o'r Ddeddf, rhaid iddynt, cyn gynted ag y bo'n rhesymol ymarferol, roi copi o'r gorchymyn (neu hysbysiad am y dirymu) i bob awdurdod lleol yng Nghymru pan fo Gweinidogion Cymru yn ystyried bod y toriad a amheuir mor ddifrifol fel eu bod, os ydynt yn penderfynu bod y toriad wedi digwydd, yn debygol o wneud gorchymyn o dan adran 58U(2)(d) o'r Ddeddf yn canslo cofrestriad y person.

Apelio penderfyniad a wneir gan Weinidogion Cymru

6.—(1) Pan ddarperir ar gyfer yr hawl i apelio o dan adran 58D(4), 58I(5), 58J(5), 58P(4), 58U(5), 58V(5), 58Z4(7), 58Z5(9), 58Z6(5) neu 58Z7(5) o'r Ddeddf, rhaid gwneud apêl i'r llys ynadon drwy gŵyn.

(2) Ni chaniateir gwneud apêl ond o dan un neu ragor o'r seiliau a ganlyn. Y seiliau yw bod penderfyniad Gweinidogion Cymru—

- (a) yn wallus yn ffeithiol;
- (b) yn anghywir yn gyfreithiol;
- (c) yn afresymol;
- (d) yn ddiffygiol yn weithdrefnol.

Contravention of professional conduct rules

4. For the purposes of section 58U(4)(b)(ii) of the Act, where the Welsh Ministers(1) make a disciplinary order(2) in relation to a registered building control approver, they must as soon as reasonably practicable give a copy of the disciplinary order to each local authority in Wales where there has been—

- (a) a variation of registration in a way specified in the order,
- (b) a suspension of registration for the period specified in the order, or
- (c) a cancellation of registration from the date specified in the order.

Interim suspension for suspected serious contravention

5. For the purposes of section 58V(4)(b)(ii) of the Act, where the Welsh Ministers make (or revoke) an order under section 58V of the Act, they must as soon as reasonably practicable give a copy of the order (or notice of the revocation) to each local authority in Wales where the Welsh Ministers consider that the suspected contravention is so serious that, if the Welsh Ministers determine that the contravention has occurred, they are likely to make an order under section 58U(2)(d) of the Act cancelling the person's registration.

Appealing a decision made by the Welsh Ministers

6.—(1) Where the right of appeal is provided for under section 58D(4), 58I(5), 58J(5), 58P(4), 58U(5), 58V(5), 58Z4(7), 58Z5(9), 58Z6(5) or 58Z7(5) of the Act, an appeal must be made to a magistrates' court by way of complaint.

(2) An appeal may only be made on one or more of the following grounds. The grounds are that the Welsh Ministers' decision was—

- (a) erroneous in fact;
- (b) wrong in law;
- (c) unreasonable;
- (d) procedurally flawed.

(1) Gweinidogion Cymru yw'r awdurdod rheoleiddio o ran Cymru. Gweler adran 58A(b) o Ddeddf Adeiladu 1984.

(2) Gweler y diffiniad o "disciplinary order" yn adran 58U o Ddeddf Adeiladu 1984.

(1) In relation to Wales, the Welsh Ministers are the regulatory authority. See section 58A(b) of the Building Act 1984.

(2) See the definition of disciplinary order in section 58U of the Building Act 1984.

(3) Rhaid gwneud apêl o fewn 21 o ddiwrnodau perthnasol sy'n dechrau â'r diwrnod drannoeth y diwrnod y mae Gweinidogion Cymru yn hysbysu'r ceisydd am y penderfyniad, neu o fewn y cyfnod estynedig hwnnw y caiff y ceisydd a Gweinidogion Cymru gytuno arno yn ysgrifenedig ar unrhyw adeg.

(4) Ar apêl, caiff llys ynadon gadarnhau, amrywio neu ddiddymu'r penderfyniad sydd wedi ei wneud gan Weinidogion Cymru.

(3) An appeal must be made within 21 relevant days beginning with the day after the day on which the Welsh Ministers notify the applicant of the decision, or within such extended period as may at any time be agreed upon in writing between the applicant and the Welsh Ministers.

(4) On an appeal, a magistrates' court may confirm, vary or quash the decision made by the Welsh Ministers.

Julie James

Y Gweinidog Newid Hinsawdd, un o Weinidogion
Cymru
1 Rhagfyr 2023

The Minister for Climate Change, one of the Welsh
Ministers
1 December 2023

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