



Deddf Rheoleiddio Landlordiaid Cymdeithasol Cofrestredig (Cymru) 2018

2018 dccc 4

Nodiadau Esboniadol

Regulation of Registered Social Landlords (Wales) Act 2018

2018 anaw 4

Explanatory Notes

£10.00



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NODIADAU ESBONIADOL

RHAGARWEINIAD

1. Mae'r Nodiadau Esboniadol hyn ar gyfer Deddf Rheoleiddio Landlordiaid Cymdeithasol Cofrestredig (Cymru) a basiwyd gan Gynulliad Cenedlaethol Cymru ar 8 Mai 2018 ac a gafodd y Cydsyniad Brenhinol ar 13 Mehefin 2018. Fe'u lluniwyd gan *Grŵp Addysg a Gwasanaethau Cyhoeddus Llywodraeth Cymru er mwyn cynorthwyo'r sawl sy'n darllen y Ddeddf.*
2. Dylid darllen y Nodiadau Esboniadol ar y cyd â'r Ddeddf, ond nid ydynt yn rhan ohoni. Ni fwriedir iddynt fod yn ddisgrifiad cynhwysfawr o'r Ddeddf. Pan fo adran o'r Ddeddf yn hunanesboniadol ac nad ymddengys bod angen unrhyw esboniad na sylw pellach, nis rhoddir.
3. Yn y nodiadau hyn, cyfeirir at Ddeddf Tai 1996 fel "Deddf 1996" a chyfeirir at Atodlen 1 i Ddeddf Tai 1996 fel "Atodlen 1".

CRYNODEB A'R CEFNDIR

4. Cyrff sydd wedi eu cofrestru gyda Gweinidogion Cymru o dan Ran 1 o Ddeddf 1996 yw landlordiaid cymdeithasol cofrestredig. Gallant fod yn elusen gofrestredig, yn gymdeithas a gofrestrwyd o dan Ddeddf Cymdeithasau Cydweithredol a Chymdeithasau Budd Cymunedol 2014 neu'n gwmni cofrestredig. Rhaid iddynt fod yn gyrff nad ydynt yn gwneud elw, a bod wedi eu sefydlu at ddiben darparu, adeiladu, gwella neu reoli tai i'w gosod neu hosteli, neu fod hynny'n rhan o'u hamcanion neu eu pwerau.
5. Ar 29 Medi 2016, cyhoeddodd y Swyddfa Ystadegau Gwladol y dylid dosbarthu landlordiaid cymdeithasol cofrestredig yng Nghymru yn Gorfforaethau Cyhoeddus Anariannol yn y cyfrifon gwladol. Y rheswm am hyn yw bod landlordiaid cymdeithasol cofrestredig yn ddarostyngedig i'r hyn y mae'r Swyddfa Ystadegau Gwladol yn ei alw'n rheolaeth lywodraethol, drwy bwerau rheoleiddio yn bennaf, a nodir yn Neddf 1996. Cyn hynny, roeddent yn cael eu dosbarthu yn Gorfforaethau Preifat Anariannol.
6. Caiff cyfran helaeth o'r rhaglen datblygu landlordiaid cymdeithasol cofrestredig ei hariannu drwy fenthycu o'r sector preifat sy'n ategu Grant Tai Cymdeithasol a rhaglenni ariannu eraill Llywodraeth Cymru.

REGULATION OF REGISTERED SOCIAL LANDLORDS (WALES) ACT 2018

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes are for the Regulation of Registered Social Landlords (Wales) Act which was passed by the National Assembly for Wales on 8 May 2018 and received Royal Assent on 13 June 2018. They have been prepared by the Education and Public Services Group of the Welsh Government in order to assist the reader of the Act.
2. The Explanatory Notes should be read in conjunction with the Act but are not part of it. They are not meant to be a comprehensive description of the Act. Where a section of the Act is self-explanatory and does not seem to require any further explanation or comment, none is given.
3. In these notes, the Housing Act 1996 is referred to as the “1996 Act” and Schedule 1 to the Housing Act 1996 is referred to as “Schedule 1”.

SUMMARY AND BACKGROUND

4. Registered Social Landlords (RSLs) are bodies registered with the Welsh Ministers under Part 1 of the 1996 Act. They can be a registered charity, a society registered under the Co-operative and Community Benefit Societies Act 2014 or a registered company. They must be non-profit-making and have been established for the purpose of, or having among their objects or powers, the provision, construction, improvement or management of houses for letting or hostels.
5. On the 29 September 2016 the Office for National Statistics (ONS) announced that RSLs in Wales should be classified in the national accounts as Public Non-financial Corporations. The reason for this is RSLs are subject to what ONS term government control, mainly through regulatory powers, set out in the 1996 Act. Previously, RSLs were classified as Private Non-financial Corporations.
6. A significant proportion of the RSL development programme is funded through borrowing from the private sector which supplements Welsh Government Social Housing Grant and other funding programmes.

7. Bydd dosbarthu landlordiaid cymdeithasol cofrestredig yng Nghymru yn Gorfforaethau Cyhoeddus Anariannol yn cynyddu Dyled Net y Sector Cyhoeddus a Lefel Fenthycia Net y Sector Cyhoeddus, gan y byddai unrhyw fenthyciadau marchnad y sector preifat gan y landlordiaid cymdeithasol cofrestredig hyn sydd wedi eu hailddosbarthu i'r sector cyhoeddus yn sgorio fel tâl yn erbyn cyllidebau Llywodraeth Cymru. Byddai cyllid ar gyfer tai yn cystadlu â blaenoriaethau eraill Llywodraeth Cymru, ac mae'n debygol y byddai hynny'n golygu llai o dai fforddiadwy newydd ac opsiynau cyfyngedig i Lywodraeth Cymru fanteisio ar gyfraniad cadarnhaol landlordiaid cymdeithasol cofrestredig i'r cymunedau y maent yn gweithio ynddynt, gan gynnwys manteision sylweddol o ran yr economi a chyflogaeth leol. Byddai hefyd yn creu ansicrwydd i randdeiliaid, gan gynnwys cyllidwyr sydd wedi gwneud ymrwymadau tymor hir i ariannu sector landlordiaid cymdeithasol cofrestredig annibynnol.
8. Mae'r Ddeddf hon yn diwygio neu'n dileu'r elfennau hynny o reolaeth llywodraeth ganolog a llywodraeth leol a arweiniodd at benderfyniad y Swyddfa Ystadegau Gwladol i ddsbarthu landlordiaid cymdeithasol cofrestredig yn Gorfforaethau Cyhoeddus Anariannol, fel y gellir ailddosbarthu landlordiaid cymdeithasol cofrestredig yn Gorfforaethau Preifat Anariannol unwaith eto.

SYLWEBEAETH AR YR ADRANNAU

Trosolwg

Adran 1 – Trosolwg o'r Ddeddf hon

9. Mae'r Rhan hon o'r Ddeddf yn rhoi trosolwg o'i phrif ddarpariaethau. Fe'u heglurir yn fanylach yn yr adrannau a ganlyn.

Dehongli

Adran 2 – Ystyr "Deddf 1996"

10. Cyfeirir at Ddeddf Tai 1996 (p. 52) fel "Deddf 1996" drwy gydol y Ddeddf.

Landlord cymdeithasol cofrestredig yn hysbysu am newidiadau cyfansoddiadol, etc.

Adran 3 - Newid rheolau neu erthyglau

11. Mae adran 3 yn diwygio paragraff 9 a pharagraff 11 o Atodlen 1.

Paragraff 9 o Atodlen 1

12. Mae paragraff 9 o Atodlen 1 yn gymwys i landlord cymdeithasol cofrestredig sy'n gymdeithas gofrestrdig o dan Ddeddf Cymdeithasau Cydweithredol a Chymdeithasau Budd Cymunedol 2014. Mae cymdeithasau cofrestredig wedi eu cofrestru gyda'r Awdurdod Ymddygiad Ariannol.
13. Mae paragraff 9 o Atodlen 1 wedi ei ddiwygio i ddileu'r gofyniad i landlord cymdeithasol cofrestredig gael cydsyniad Gweinidogion Cymru i newid rheolau penodol, ac yn lle hynny mae'n gosod dyletswydd ar landlord cymdeithasol cofrestredig i hysbysu Gweinidogion Cymru.

These notes refer to the Regulation of Registered Social Landlords (Wales) Act 2018 (anaw 4) which received Royal Assent on 13 June 2018.

7. The classification of RSLs in Wales as Public Non-financial Corporations will increase Public Sector Net Debt and Public Sector Net Borrowing because any private sector market borrowings taken out by these reclassified public sector RSLs would score as a charge against Welsh Government budgets. Funding for housing would be competing with other Welsh Government priorities and it is likely this would mean fewer new affordable homes and limited options for the Welsh Government to maximise the positive contributions RSLs make to the communities in which they work, including significant local employment and economic benefits. It would also result in uncertainty for stakeholders, including funders who have made long term commitments to funding an independent RSL sector.
8. This Act amends or removes those elements of central and local government control which led to the decision by ONS to classify RSLs as Public Non-financial Corporations, in order to enable the reclassification of RSLs back to Private Non-financial Corporations.

COMMENTARY ON SECTIONS

Overview

Section 1 - Overview of this Act

9. This Part of the Act is an overview of its main provisions which are explained in more detail in the sections which follow.

Interpretation

Section 2 - Meaning of the "1996 Act"

10. Throughout the Act, the Housing Act 1996 (c. 52) is referred to as the "1996 Act".

Notification by registered social landlord of constitutional changes, etc.

Section 3 - Change of rules or articles

11. Section 3 amends paragraph 9 and paragraph 11 of Schedule 1.

Paragraph 9 of Schedule 1

12. Paragraph 9 of Schedule 1 applies to an RSL which is a registered society under the Co-operative and Community Benefit Societies Act 2014. Registered societies are registered with the Financial Conduct Authority (FCA).
13. Paragraph 9 of Schedule 1 is amended to remove the requirement for an RSL to obtain the consent of the Welsh Ministers to certain rule changes, and instead impose a duty on an RSL to notify the Welsh Ministers.

14. Os yw landlord cymdeithasol cofrestredig yn newid unrhyw un neu ragor o'i reolau, gan gynnwys ei enw a chyfeiriad ei swyddfa gofrestrdig, nid oes angen iddo gael cydsyniad Gweinidogion Cymru. Rhaid iddo hysbysu Gweinidogion Cymru a chydymffurfio ag unrhyw gyfarwyddydau hysbysu a roddir ganddynt. I gael rhagor o wybodaeth am gyfarwyddydau hysbysu gweler paragraff 13A o Atodlen 1, a fewnosodir gan adran 5 o'r Ddeddf.

Paragraff 11 o Atodlen 1

15. Mae paragraff 11 o Atodlen 1 yn gymwys i landlord cymdeithasol cofrestredig sydd wedi ei gofrestru yn gwmni (gan gynnwys cwmni sy'n elusen gofrestrdig). Caiff cofrestrriad cwmniau ei gofnodi gan y Cofrestrydd Cwmniau. Rhaid i gwmni ffeilio Erthyglau Cymdeithasu gyda'r Cofrestrydd Cwmniau. Dogfen yw hon sy'n nodi diben y cwmni yn ogystal â dyletswyddau a chyfrifoldebau ei aelodau. Rhaid i'r cwmni hefyd anfon copi o unrhyw benderfyniad sy'n addasu ei erthyglau at y Cofrestrydd Cwmniau.
16. Mae paragraff 11 o Atodlen 1 wedi ei ddiwygio gan adran 3, gan ddileu'r gofyniad i landlord cymdeithasol cofrestredig gael cydsyniad Gweinidogion Cymru i newid rheolau penodol, ac yn lle hynny mae'n gosod dyletswydd ar landlord cymdeithasol cofrestredig i hysbysu Gweinidogion Cymru am y newidiadau hynny.
17. Os yw landlord cymdeithasol cofrestredig sydd wedi ei gofrestru yn gwmni yn gwneud newidiadau i'w enw, i gyfeiriad ei swyddfa gofrestrdig neu i'w erthyglau cymdeithasu, nid oes angen iddo gael cydsyniad Gweinidogion Cymru, ond rhaid iddo hysbysu Gweinidogion Cymru a chydymffurfio ag unrhyw gyfarwyddydau hysbysu a roddir ganddynt. I gael rhagor o wybodaeth am gyfarwyddydau hysbysu gweler paragraff 13A o Atodlen 1, a fewnosodir gan adran 5 o'r Ddeddf.

Adran 4 – Cyfuno a newidiadau strwythurol eraill

18. Mae adran 4 yn diwygio paragraffau 12 i 14 o Atodlen 1.

Paragraff 12 o Atodlen 1

19. Mae paragraff 12 o Atodlen 1 yn gymwys i landlord cymdeithasol cofrestredig sy'n gymdeithas gofrestrdig o dan Ddeddf Cymdeithasau Cydweithredol a Chymdeithasau Budd Cymunedol 2014.
20. Mae adran 109 o Ddeddf Cymdeithasau Cydweithredol a Chymdeithasau Budd Cymunedol 2014 yn caniatáu i gymdeithas gofrestrdig basio penderfyniad arbennig i gyfuno â chymdeithas arall. Mae adran 110 o'r Ddeddf honno yn caniatáu i gymdeithas gofrestrdig basio penderfyniad arbennig i drosglwyddo ymrwymiadau rhwng cymdeithasau. Mae adran 112 o'r Ddeddf honno yn caniatáu i gymdeithas gofrestrdig basio penderfyniad i'w throsi ei hun yn gwmni, i gyfuno â chwmni neu i drosglwyddo ei hymrwymiadau i gwmni. Rhaid anfon copi o'r penderfyniad at yr Awdurdod Ymddygiad Ariannol.
21. Gall cymdeithas hefyd basio penderfyniad arbennig i ddirwyn y gymdeithas i ben yn wirfoddol o dan Ddeddf Ansolfedd 1986. Os yw cymdeithas yn gwneud hynny, rhaid iddi anfon copi o'r penderfyniad at yr Awdurdod Ymddygiad Ariannol.

14. If an RSL makes a change to any of its rules, including its name and the address of its registered office, it does not need to obtain the Welsh Ministers' consent. It must notify the Welsh Ministers and comply with any notification directions given by them. For more information on notification directions see paragraph 13A of Schedule 1, inserted by section 5 of the Act.

Paragraph 11 of Schedule 1

15. Paragraph 11 of Schedule 1 applies to an RSL which is registered as a company (including a company that is a registered charity). The registration of companies is recorded by the registrar of companies. A company must file Articles of Association with the Registrar of Companies. This is a document that contains the purpose of the company as well as the duties and responsibilities of its members. The company must also send a copy of any resolution which makes alterations to its articles to the registrar of companies.
16. Paragraph 11 of Schedule 1 is amended by section 3, removing the requirement for an RSL to obtain the consent of the Welsh Ministers to certain rule changes, and instead impose a duty on an RSL to notify the Welsh Ministers of those changes.
17. If an RSL which is registered as a company makes changes to its name, the address of its registered office or its articles of association, it does not need to obtain the Welsh Ministers' consent but must notify the Welsh Ministers and comply with any notification directions given by them. For more information on notification directions see paragraph 13A of Schedule 1, inserted by section 5 of the Act.

Section 4 – Amalgamation and other structural changes

18. Section 4 amends paragraphs 12 to 14 of Schedule 1.

Paragraph 12 of Schedule 1

19. Paragraph 12 of Schedule 1 applies to an RSL which is a registered society under the Co-operative and Community Benefit Societies Act 2014.
20. Section 109 of the Co-operative and Community Benefit Societies Act 2014 allows a registered society to pass a special resolution to amalgamate with another society. Section 110 of that Act allows a registered society to pass a special resolution to transfer engagements between societies. Section 112 of that Act allows a registered society to pass a resolution to convert itself into a company, amalgamate with a company or transfer its engagements to a company. A copy of the resolution must be forwarded to the FCA.
21. A society can also pass a special resolution that it be wound up voluntarily under the Insolvency Act 1986. If a society does this, it must forward a copy of the resolution to the FCA.

22. Gall cymdeithas sy'n solfent hefyd wneud cais i'r Awdurdod Ymddygiad Ariannol am gofrestru offeryn diddymu a fydd yn caniatáu iddi gael ei diddymu ac yn terfynu ei chofrestriad fel cymdeithas.
23. Gwneir diwygiadau i baragraff 12 o Atodlen 1 i ddileu'r gofynion i landlord cymdeithasol cofrestredig sy'n gymdeithas gofrestredig gael cydsyniad Gweinidogion Cymru i benderfyniad:
 - i gyfuno â chymdeithas arall, i drosglwyddo ei ymrwymadau i gymdeithas arall, i'w drosi ei hun yn gwmni cofrestredig, i gyfuno â chwmni neu i drosglwyddo ei ymrwymadau i gwmni; neu
 - i gael ei ddirwyn i ben yn wirfoddol o dan Ddeddf Ansolfedd 1986 neu drwy offeryn diddymu, ac
 - yn lle hynny gosodir dyletswydd ar landlord cymdeithasol cofrestredig i hysbysu Gweinidogion Cymru am benderfyniadau o'r fath.
24. O ganlyniad i'r diwygiadau a wneir i baragraff 12 o Atodlen 1 gan adran 4, nid oes rhaid i landlord cymdeithasol cofrestredig sy'n gymdeithas gofrestredig gael cydsyniad Gweinidogion Cymru i benderfyniad i gyfuno â chymdeithas arall, i drosglwyddo ei ymrwymadau i gymdeithas arall, i'w drosi ei hun yn gwmni cofrestredig, i gyfuno â chwmni neu i drosglwyddo ei ymrwymadau i gwmni. Rhaid i'r landlord cymdeithasol cofrestredig hysbysu Gweinidogion Cymru a chydymffurfio ag unrhyw gyfarwyddydau hysbysu a roddir ganddynt. I gael rhagor o wybodaeth am gyfarwyddydau hysbysu gweler paragraff 13A o Atodlen 1, a fewnosodir gan adran 5 o'r Ddeddf.
25. Yn ogystal â hynny, rhaid i unrhyw hysbysiad i Weinidogion Cymru ynghylch unrhyw un neu ragor o'r penderfyniadau y cyfeirir atynt yn y paragraff uchod (ac eithrio penderfyniadau i drosi cymdeithas yn gwmni) ddod gyda datganiad sy'n nodi'r modd yr ymgynghorodd y landlord cymdeithasol cofrestredig â'i denantiaid cyn pasio'r penderfyniad o dan sylw.
26. Nid yw'n ofynnol cael cydsyniad Gweinidogion Cymru cyn i benderfyniad gael ei basio bod y landlord cymdeithasol cofrestredig yn cael ei ddirwyn i ben yn wirfoddol o dan Ddeddf Ansolfedd 1986 neu os yw'r landlord cymdeithasol cofrestredig i gael ei ddiddymu drwy offeryn diddymu. Rhaid i'r landlord cymdeithasol cofrestredig hysbysu Gweinidogion Cymru a chydymffurfio ag unrhyw gyfarwyddydau hysbysu a roddir ganddynt. I gael rhagor o wybodaeth am gyfarwyddydau hysbysu gweler paragraff 13A o Atodlen 1, a fewnosodir gan adran 5 o'r Ddeddf.

Paragraff 13 o Atodlen 1

27. Mae paragraff 13 yn gymwys i landlordiaid cymdeithasol cofrestredig sy'n gwmnïau cofrestredig y mae eu chofrestriad fel landlord cymdeithasol wedi ei gofnodi gan y Cofrestrydd Cwmnïau.

These notes refer to the Regulation of Registered Social Landlords (Wales) Act 2018 (anaw 4) which received Royal Assent on 13 June 2018.

22. A society which is solvent can also apply to the FCA to register an instrument of dissolution which will allow it to be dissolved and terminate its registration as a society.
23. Amendments are made to paragraph 12 of Schedule 1 to remove the requirements for an RSL which is a registered society to obtain the consent of the Welsh Ministers to a resolution:
 - to amalgamate with another society, transfer its engagements to another society, convert itself into a registered company, amalgamate with a company or transfer its engagements to a company; or
 - to be wound up voluntarily under the Insolvency Act 1986 or by an instrument of dissolution, and
 - Instead a duty will be imposed on an RSL to notify the Welsh Ministers of such resolutions.
24. As a result of the amendments made to paragraph 12 of Schedule 1 by section 4, an RSL which is a registered society does not have to obtain the consent of the Welsh Ministers to a resolution to amalgamate with another society, transfer its engagements to another society, convert itself into a registered company, amalgamate with a company or transfer its engagements to a company. The RSL must notify the Welsh Ministers and comply with any notification directions given by them. For more information on notification directions see paragraph 13A of Schedule 1, inserted by section 5 of the Act.
25. In addition, any notification to the Welsh Ministers of any of the resolutions referred to in the paragraph above (with the exception of resolutions for conversion of a society to a company) must be accompanied by a statement setting out the consultation the RSL carried out with its tenants before passing the resolution in question .
26. The consent of the Welsh Ministers is not required before a resolution is passed that the RSL is wound up voluntarily under the Insolvency Act 1986 or if the RSL is to be dissolved by an instrument of dissolution. The RSL must notify the Welsh Ministers and comply with any notification directions given by them. For more information on notification directions see paragraph 13A of Schedule 1, inserted by section 5 of the Act.

Paragraph 13 of Schedule 1

27. Paragraph 13 applies to RSLs which are registered companies whose registration as a social landlord has been recorded by the registrar of companies.

28. Mae adran 899 o Ddeddf Cwmnïau 2006 yn caniatáu i gwmni wneud cais am orchymyn llys i ddod i gyfaddawd neu wneud trefniant â'i gredydwyr neu ei aelodau. Mae adran 900 o'r Ddeddf honno yn caniatáu i'r cwmni wneud cais am orchymyn llys i drosglwyddo'r cyfan neu unrhyw ran o'i ymgymeriad, neu ei eiddo neu ei rwymedigaethau, at ddibenion atgyfansoddi neu gyfuno'r cwmni, ymhlith pethau eraill. Rhaid i'r cwmni anfon y copi swyddfa o'r gorchymyn at y Cofrestrydd Cwmnïau.
29. Gall landlord cymdeithasol cofrestredig sy'n gwmni hefyd basio penderfyniad o dan adran 115 o Ddeddf Cymdeithasau Cydweithredol a Chymdeithasau Budd Cymunedol 2014 i drosi yn gymdeithas gofrestredig a rhaid iddo anfon copi o'r penderfyniad at y Cofrestrydd Cwmnïau.
30. Gall cyfarwyddwr, gweinyddwr neu ddatodwr i'r cwmni hefyd wneud trefniant gwirfoddol â chredydwy'r y cwmni o dan Ran 1 o Ddeddf Ansofedd 1986. Rhaid i aelodau a chredydwy'r y cwmni gymeradwyo'r trefniant hwn.
31. Gall cwmni basio penderfyniad arbennig ei fod yn cael ei ddirwyn i ben yn wirfoddol o dan Ddeddf Ansofedd 1986, ac yn unol ag adran 30 o Ddeddf Cwmnïau 2006, rhaid anfon copi o'r penderfyniad at y Cofrestrydd Cwmnïau.
32. Gwneir newidiadau i baragraff 13 o Atodlen 1 i ddileu'r gofynion bod landlord cymdeithasol cofrestredig sy'n gwmni yn cael cydsyniad Gweinidogion Cymru er mwyn cymryd unrhyw un neu ragor o'r camau a restrir yn y pedwar paragraff blaenorol.
33. O ganlyniad i'r diwygiad a wneir gan adran 4, mae'r sefyllfa o dan baragraff 13 fel a ganlyn:
 - Nid oes angen i gwmni gael cydsyniad Gweinidogion Cymru i wneud cais am orchymyn llys o dan adran 899 o Ddeddf Cwmnïau 2006, ond rhaid iddo hysbysu Gweinidogion Cymru a chydymffurfio ag unrhyw gyfarwyddydau hysbysu a roddir ganddynt.
 - Nid oes angen i gwmni gael cydsyniad Gweinidogion Cymru i wneud cais am orchymyn llys o dan adran 900 o Ddeddf Cwmnïau 2006, ond rhaid iddo hysbysu Gweinidogion Cymru a chydymffurfio ag unrhyw gyfarwyddydau hysbysu a roddir ganddynt.
 - Os yw cwmni'n pasio penderfyniad o dan adran 115 o Ddeddf Cymdeithasau Cydweithredol a Chymdeithasau Budd Cymunedol 2014 i drosi'r cwmni yn gymdeithas gofrestredig, nid oes angen iddo gael cydsyniad Gweinidogion Cymru ond rhaid iddo hysbysu Gweinidogion Cymru a chydymffurfio ag unrhyw gyfarwyddydau hysbysu a roddir ganddynt.
 - Nid yw mwyach yn ofynnol i gael cydsyniad Gweinidogion Cymru i unrhyw drefniant gwirfoddol o dan Ran 1 o Ddeddf Ansofedd 1986 mewn perthynas â chwmni ond rhaid i'r landlord cymdeithasol cofrestredig hysbysu Gweinidogion Cymru a chydymffurfio ag unrhyw gyfarwyddydau hysbysu a roddir ganddynt.

28. Section 899 of the Companies Act 2006 allows a company to apply for a court order to make a compromise or arrangement with its creditors or members. Section 900 of the same Act allows the company to apply for a court order for, among other things, the transfer of the whole of or any part of its undertaking, or its property or liabilities, for the purposes of reconstruction or amalgamation of the company. The company must send the office copy of the order to the registrar of companies.
29. An RSL which is a company can also pass a resolution under section 115 of the Co-operative and Community Benefit Societies Act 2014 to convert into a registered society and must forward a copy of the resolution to the registrar of companies.
30. A director, administrator or liquidator of the company can also make a voluntary arrangement with the company's creditors under Part 1 of the Insolvency Act 1986. This arrangement must be approved by company members and creditors.
31. A company can pass a special resolution that it be wound up voluntarily under the Insolvency Act 1986 and, in accordance with section 30 of the Companies Act 2006, a copy of the resolution must be forwarded to the registrar of companies.
32. Amendments are made to paragraph 13 of Schedule 1 to remove the requirements for an RSL, which is a company, to obtain the consent of the Welsh Ministers in order to take any of the steps listed in the four preceding paragraphs.
33. As a result of the amendment made by section 4, the position under paragraph 13 is as follows:
 - A company does not need to obtain the consent of the Welsh Ministers to apply for a court order under section 899 of the Companies Act 2006, but must notify the Welsh Ministers and comply with any notification directions given by them.
 - A company does not need to obtain the consent of the Welsh Ministers to apply for a court order under section 900 of the Companies Act 2006, but must notify the Welsh Ministers and comply with any notification directions given by them.
 - If a company passes a resolution under section 115 of the Co-operative and Community Benefit Societies Act 2014 for conversion into a registered society it does not need the consent of the Welsh Ministers but must notify the Welsh Ministers and comply with any notification directions given by them.
 - The Welsh Ministers' consent is no longer required for any voluntary arrangement under Part 1 of the Insolvency Act 1986 in relation to a company but the RSL must notify the Welsh Ministers and comply with any notification directions given by them.

- Nid yw'n ofynnol i Weinidogion Cymru roi eu cydsyniad cyn i gwmni basio penderfyniad arbennig ei fod i'w ddirwyn i ben yn wirfoddol o dan Ddeddf Ansofedd 1986. Rhaid i'r landlord cymdeithasol cofrestredig hysbysu Gweinidogion Cymru a chydymffurfio ag unrhyw gyfarwyddydau hysbysu a roddir ganddynt.

I gael rhagor o wybodaeth am gyfarwyddydau hysbysu gweler paragraff 13A o Atodlen 1, a fewnosodir gan adran 5 o'r Ddeddf.

Paragraff 14 o Atodlen 1

34. Mae adran 4 hefyd yn dileu paragraff 14 o Atodlen 1, gan ddileu pŵer *Gweinidogion Cymru* i wneud cais i ddirwyn i ben landlord cymdeithasol cofrestredig sy'n gwmni neu'n gymdeithas gofrestrdedig o dan Ddeddf Ansofedd 1986 pan fo landlord cymdeithasol cofrestredig naill ai'n methu â chyflawni ei ddibenion neu ei amcanion yn briodol, neu'n analluog i dalu ei ddyledion.

Adran 5 – Cyfarwyddydau ynghylch hysbysiadau sydd i'w rhoi i Weinidogion Cymru

35. Mae adran 5 yn ychwanegu paragraff 13A pellach at Atodlen 1.
36. O dan adrannau 3 a 4 o'r Ddeddf, mewnosodir dyletswyddau yn Atodlen 1 o Ddeddf 1996 sy'n ei gwneud yn ofynnol i landlordiaid cymdeithasol cofrestredig hysbysu Gweinidogion Cymru am newidiadau penodol. Mae'r paragraff 13A ychwanegol hwn yn caniatáu i Weinidogion Cymru ddyroddi cyfarwyddydau sy'n pennu sut y byddant yn cael eu hysbysu a beth a gynhwysir mewn hysbysiad, ac yn gosod terfyn amser ar gyfer hysbysiadau. Mae hefyd yn eu galluogi i amrywio'r gofynion hyn yn ôl yr amgylchiadau. Gall cyfarwyddyd fod yn gymwys i bob landlord cymdeithasol cofrestredig neu i rai penodol, neu i landlordiaid cymdeithasol cofrestredig o ddisgrifiad penodol, a chaiff fod yn gymwys i bob hysbysiad, i hysbysiadau o ddisgrifiad penodol neu o dan amgylchiadau penodol.
37. Gall cyfarwyddyd hefyd hepgor gofyniad i hysbysu Gweinidogion Cymru a chaiff amrywio neu ddirymu cyfarwyddyd blaenorol.
38. Rhaid i landlord cymdeithasol cofrestredig gydymffurfio â chyfarwyddyd sy'n gymwys iddo.

Pwerau sy'n arferadwy mewn cysylltiad â swyddogion a rheolaeth landlord cymdeithasol cofrestredig

Trosolwg

39. Mae'r trothwy ar gyfer ymyrraeth gan Weinidogion Cymru yn amrywio gan ddibynnu ar y ddarpariaeth berthnasol, ond mae'r prif drothwy (sef yn flaenorol pan fo Gweinidogion Cymru wedi eu bodloni bod camymddwyn neu gamreoli wedi digwydd o ran materion y landlord cymdeithasol cofrestredig) wedi newid. Mae adrannau 6 i 12 o'r Ddeddf yn gwneud y newidiadau i'r trothwy.

These notes refer to the Regulation of Registered Social Landlords (Wales) Act 2018 (anaw 4) which received Royal Assent on 13 June 2018.

- The Welsh Ministers' consent is not required before a company passes a special resolution that it be wound up voluntarily under the Insolvency Act 1986. The RSL must notify the Welsh Ministers and comply with any notification directions given by them.

For more information on notification directions see paragraph 13A of Schedule 1, inserted by section 5 of the Act.

Paragraph 14 of Schedule 1

34. Section 4 also removes paragraph 14 of Schedule 1, removing the Welsh Ministers' power to petition for winding up of an RSL which is a company or registered society under the Insolvency Act 1986 where an RSL is either failing to carry out its purposes or objects properly, or if it is unable to pay its debts.

Section 5 - Directions about notifications to be given to Welsh Ministers

35. Section 5 adds a further paragraph 13A to Schedule 1.
36. Under sections 3 and 4 of the Act, duties are inserted into Schedule 1 of the 1996 Act requiring RSLs to notify the Welsh Ministers of specific changes. This additional paragraph 13A allows the Welsh Ministers to issue directions specifying how they will be notified, what a notification will contain and to set a deadline for notifications. It also enables them to vary these requirements according to circumstances. A direction can apply to all or specific RSLs or RSLs of a specific description and may apply to all notifications, notifications of a certain description or in particular circumstances.
37. A direction can also dispense with a requirement to notify the Welsh Ministers and may vary or revoke a previous direction.
38. An RSL must comply with a direction which applies to it.

Powers exercisable in respect of officers and management of registered social landlord

Overview

39. The threshold for intervention by the Welsh Ministers varies depending on the relevant provision, however, the main threshold (formerly where the Welsh Ministers were satisfied that there had been misconduct or mismanagement in the affairs of the RSL) is changed. Sections 6 to 12 of the Act make the changes to the threshold.

40. O ganlyniad i'r diwygiadau, mae'r trothwy ar gyfer ymyrraeth yn gymwys pan fo Gweinidogion Cymru wedi eu bodloni y bu methiant i gydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano, ("failure to comply with a requirement imposed by or under an enactment"). Bydd hyn yn cynnwys torri Deddfau'r DU, Deddfau neu Fesurau Cynulliad Cenedlaethol Cymru, rheoliadau ac is-ddeddfwriaeth arall, yn ogystal ag unrhyw gyfarwyddydau neu safonau a wneir o dan ddeddfiad, y mae'n ofynnol i landlord cymdeithasol cofrestredig gydymffurfio â hwy. Gan fod y trothwy newydd yn cynnwys torri safonau a wnaed o dan adran 33A o Ddeddf 1996, lle, o dan Ddeddf 1996, yr oedd seiliau ymyrryd ar wahân ar sail torri safon, mae'r rhain wedi eu disodli, yn gyffredinol, gan y trothwy newydd.
41. Mae adran 33A o Ddeddf 1996 yn galluogi Gweinidogion Cymru i osod safonau perfformiad y mae landlordiaid cymdeithasol cofrestredig i'w bodloni mewn cysylltiad â'u swyddogaethau sy'n ymwneud â darparu tai, a materion sy'n ymwneud â'u llywodraethu a rheolaeth ariannol.

Adran 6 – Diswyddo neu benodi swyddog landlord cymdeithasol cofrestredig

42. Mae adran 6 yn diwygio paragraffau 4 a 6 i 8 o Atodlen 1.

Paragraff 4 o Atodlen 1

43. Gwneir diwygiadau i baragraff 4 o Atodlen 1 i ddiwygio'r trothwy lle y gall Gweinidogion Cymru ddiswyddo swyddog o dan baragraff 4(2)(g). O ganlyniad, mae'r sefyllfa fel a ganlyn:
- Gall Gweinidogion Cymru ddiswyddo swyddog landlord cymdeithasol cofrestredig o dan amgylchiadau amrywiol.
 - Nodir rhestr o'r amgylchiadau hyn ym mharagraff 4(2) o Atodlen 1. Nid oes newid i'r rhestr, ac eithrio i baragraff 4(2)(g), sydd wedi ei ddiwygio ac sy'n caniatáu i swyddog gael ei ddiswyddo os na ellir dod o hyd i'r swyddog neu os nad yw'n gweithredu, a bod ei absenoldeb neu ei fethiant i weithredu yn llesteirio cydymffurfedd y landlord cymdeithasol cofrestredig â gofyniad a osodir gan ddeddfiad, neu oddi tano.

Paragraffau 6 i 8 o Atodlen 1

44. Mae paragraffau 6, 7 ac 8 o Atodlen 1 yn rhoi pwerau i Weinidogion Cymru benodi personau i fod yn swyddog landlordiaid cymdeithasol cofrestredig sy'n elusennau cofrestredig, yn gwmnïau, neu'n gymdeithasau cofrestredig, yn y drefn honno.
45. Gwneir diwygiadau i baragraffau 6, 7 ac 8 o Atodlen 1 i ddiwygio'r trothwy mewn cysylltiad ag un o'r seiliau y gall Gweinidogion Cymru benodi person i fod yn swyddog landlord cymdeithasol cofrestredig oddi tanynt.
46. O ganlyniad, y sefyllfa yw y gall Gweinidogion Cymru benodi person i fod yn swyddog landlord cymdeithasol cofrestredig sy'n elusen gofrestrredig, yn gwmni neu'n gymdeithas gofrestrredig yn lle person y maent wedi ei ddiswyddo, neu pan na fo unrhyw swyddogion, neu pan fo Gweinidogion Cymru o'r farn bod y penodiad yn angenrheidiol er mwyn sicrhau bod y landlord cymdeithasol cofrestredig yn cydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano.

These notes refer to the Regulation of Registered Social Landlords (Wales) Act 2018 (anaw 4) which received Royal Assent on 13 June 2018.

40. As a result of the amendments, the threshold for intervention applies where the Welsh Ministers are satisfied that there has been “failure to comply with a requirement imposed by or under an enactment”. This will include breaches of UK Acts, Acts or Measures of the National Assembly for Wales, regulations and other secondary legislation, as well as any directions or standards made under an enactment with which an RSL is required to comply. As the threshold includes a breach of standards made under section 33A of the 1996 Act, where, under the 1996 Act, there were separate intervention grounds on the basis of a breach of a standard, these have, in general, simply been replaced with the new threshold.
41. Section 33A of the 1996 Act enables the Welsh Ministers to set standards of performance to be met by RSLs in connection with their functions relating to the provision of housing, and matters relating to their governance and financial management.

Section 6 – Removal or appointment of officer of registered social landlord

42. Section 6 amends paragraphs 4 and 6 to 8 of Schedule 1.

Paragraph 4 of Schedule 1

43. Amendments are made to paragraph 4 of Schedule 1 to amend the threshold at which the Welsh Ministers may remove an officer under paragraph 4(2)(g). As a result, the position is as follows:
 - The Welsh Ministers are able to remove an officer of an RSL under a variety of circumstances.
 - A list of these circumstances is set out in paragraph 4(2) of Schedule 1. The list is unchanged, except for paragraph 4(2)(g), which is amended and allows an officer to be removed where the officer cannot be found or does not act and their absence or failure to act is impeding the RSL’s compliance with a requirement imposed by or under an enactment.

Paragraphs 6 to 8 of Schedule 1

44. Paragraphs 6, 7 and 8 of Schedule 1 give the Welsh Ministers powers to appoint persons to be an officer of RSLs which are registered charities, companies, or registered societies respectively.
45. Amendments are made to paragraphs 6, 7 and 8 of Schedule 1 to amend the threshold in respect of one of the grounds under which the Welsh Ministers can appoint a person to be an officer of an RSL.
46. As a result, the position is that the Welsh Ministers can appoint a person to be an officer of an RSL which is a registered charity, a company or a registered society in place of a person whom they have removed or, where there are no officers, or where the Welsh Ministers are of the opinion that the appointment is necessary in order to ensure that the RSL complies with a requirement imposed by or under an enactment.

Adran 7 – Tendro neu drosglwyddo swyddogaethau rheoli landlord cymdeithasol cofrestredig

47. Mae adran 7 yn diwygio paragraffau 15B a 15D o Atodlen 1. Mae'n gymwys i bob landlord cymdeithasol cofrestredig.

Paragraff 15B o Atodlen 1

48. Gwneir diwygiadau i'r trothwy lle y gall Gweinidogion Cymru ei gwneud yn ofynnol i landlord cymdeithasol cofrestredig dendro ei swyddogaethau rheoli o dan baragraff 15B o Atodlen 1. Y trothwy oedd bod Gweinidogion Cymru wedi eu bodloni y bu camymddwyn neu gamreoli o ran materion y landlord cymdeithasol cofrestredig, a'r trothwy yn awr yw eu bod wedi eu bodloni bod y landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano.

49. O ganlyniad, mae'r sefyllfa fel a ganlyn:

- Os yw landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano, gall Gweinidogion Cymru ei gwneud yn ofynnol i'r landlord cymdeithasol cofrestredig dendro ei holl swyddogaethau rheoli, neu rai ohonynt.
- Nid yw'r paragraff yn gymwys pan fo'r methiant i gydymffurfio yn ymwneud yn unig â'r landlord cymdeithasol cofrestredig yn darparu tai yn Lloegr.

Paragraff 15D o Atodlen 1

50. Gwneir diwygiadau i un o'r trothwyon lle y gall Gweinidogion Cymru ei gwneud yn ofynnol i landlord cymdeithasol cofrestredig drosglwyddo ei swyddogaethau rheoli o dan baragraff 15D o Atodlen 1. Un o'r trothwyon oedd bod Gweinidogion Cymru wedi eu bodloni y bu camymddwyn neu gamreoli o ran materion y landlord cymdeithasol cofrestredig, a'r trothwy yn awr yw bod Gweinidogion Cymru wedi eu bodloni bod y landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano. Nid yw'r trothwy arall wedi newid.

51. O ganlyniad, mae'r sefyllfa fel a ganlyn:

- Os yw Gweinidogion Cymru wedi eu bodloni, o ganlyniad i ymchwiliad neu archwiliad (o dan baragraff 20 neu 22 o Atodlen 1), bod landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano, gall Gweinidogion Cymru ei gwneud yn ofynnol i'r landlord cymdeithasol cofrestredig drosglwyddo swyddogaethau rheoli i berson a bennir ganddynt.
- Nid yw'r paragraff yn gymwys pan fo'r methiant yn ymwneud yn unig â'r landlord cymdeithasol cofrestredig yn darparu tai yn Lloegr.

Adran 8 - Penodi rheolwr ar landlord cymdeithasol cofrestredig

52. Mae adran 8 yn diwygio'r trothwy lle y gall Gweinidogion Cymru benodi rheolwr ar landlord cymdeithasol cofrestredig o dan baragraff 15F o Atodlen 1. Y trothwy oedd bod Gweinidogion Cymru wedi eu bodloni y bu camymddwyn neu gamreoli o ran materion y landlord cymdeithasol cofrestredig, a'r trothwy yn awr yw eu bod wedi eu bodloni bod y landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano.

Section 7 – Tender or transfer of registered social landlord’s management functions

47. Section 7 amends paragraphs 15B and 15D of Schedule 1. It applies to all RSLs.

Paragraph 15B of Schedule 1

48. Amendments are made to the threshold at which the Welsh Ministers can require an RSL to tender its management functions under paragraph 15B of Schedule 1. The threshold had been that the Welsh Ministers were satisfied that there had been misconduct or mismanagement in the RSL’s affairs, it is now that they are satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment.

49. As a result, the position is as follows:

- If an RSL has failed to comply with a requirement imposed by or under an enactment, the Welsh Ministers are able to require the RSL to tender all, or some, of its management functions.
- The paragraph does not apply where the failure to comply relates only to the RSL’s provision of housing in England.

Paragraph 15D of Schedule 1

50. Amendments are made to one of the thresholds at which the Welsh Ministers can require an RSL to transfer its management functions under paragraph 15D of Schedule 1. One of the thresholds had been that the Welsh Ministers were satisfied that there had been misconduct or mismanagement in the RSL’s affairs, it is now that they are satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment. The other threshold remains unchanged.

51. As a result, the position is as follows:

- If, as a result of an inquiry or an audit (under paragraph 20 or 22 of Schedule 1), the Welsh Ministers are satisfied that an RSL has failed to comply with a requirement imposed by or under an enactment, the Welsh Ministers can require the RSL to transfer management functions to a person specified by them.
- The paragraph does not apply where the failure relates only to the RSL’s provision of housing in England.

Section 8 - Appointment of manager of registered social landlord

52. Section 8 amends the threshold at which the Welsh Ministers can appoint a manager of an RSL under paragraph 15F of Schedule 1. The threshold had been that the Welsh Ministers were satisfied that there had been misconduct or mismanagement in the RSL’s affairs, it is now that they are satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment.

53. O ganlyniad, mae'r sefyllfa fel a ganlyn:
- Os yw Gweinidogion Cymru wedi eu bodloni bod landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano, gall Gweinidogion Cymru benodi unigolyn i fod yn rheolwr ar y landlord cymdeithasol cofrestredig, neu ei gwneud yn ofynnol i'r landlord cymdeithasol cofrestredig benodi unigolyn i fod yn rheolwr.
 - Caiff y penodiad neu'r gofyniad ymwneud â rheoli'r landlord cymdeithasol cofrestredig yn gyffredinol, neu â rheoli materion penodedig.
 - Nid yw'r paragraff hwn yn gymwys pan fo'r methiant yn ymwneud yn unig â'r landlord cymdeithasol cofrestredig yn darparu tai yn Lloegr.

Adran 9 – Cyfuno y mae Gweinidogion Cymru yn rhoi effaith iddo

54. Mae adran 9 yn diwygio un o'r trothwyon lle y gall Gweinidogion Cymru gyfuno landlordiaid cymdeithasol cofrestredig sy'n gymdeithasau cofrestredig o dan baragraff 15H o Atodlen 1. Mae'r paragraff hwn yn gymwys i landlordiaid cymdeithasol cofrestredig sy'n gymdeithasau cofrestredig. Un o'r trothwyon oedd bod Gweinidogion Cymru wedi eu bodloni y bu camymddwyn neu gamreoli o ran materion y landlord cymdeithasol cofrestredig, a'r trothwy yn awr yw eu bod wedi eu bodloni bod y landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano. Nid yw'r trothwy arall wedi newid.

55. O ganlyniad, mae'r sefyllfa fel a ganlyn:
- Os yw Gweinidogion Cymru wedi eu bodloni, o ganlyniad i ymchwiliad neu archwiliad (o dan baragraff 20 neu 22 o Atodlen 1), bod landlord cymdeithasol cofrestredig sy'n gymdeithas gofrestrdedig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano, caiff Gweinidogion Cymru wneud a gweithredu ar ran y gymdeithas, offeryn sy'n darparu ar gyfer ei chyfuno â chymdeithas gofrestrdedig arall.
 - Nid yw'r paragraff hwn yn gymwys os yw'r methiant yn ymwneud yn unig â'r landlord cymdeithasol cofrestredig yn darparu tai yn Lloegr.

Pwerau sy'n arferadwy mewn cysylltiad ag ymchwiliadau etc.

Adran 10 - Ymchwiliadau ac adroddiadau

56. Mae adran 10 yn diwygio paragraffau 20, 23, 24 a 27 o Atodlen 1.

Trosolwg

57. Mae paragraff 20 o Atodlen 1 yn rhoi'r pŵer i Weinidogion Cymru gyfarwyddo ymchwiliad i faterion landlord cymdeithasol cofrestredig. Mae'r trothwy ar gyfer arfer y pŵer hwn wedi ei ddiwygio gan adran 10. Mae paragraff 22 o Atodlen 1 i Ddeddf 1996 yn nodi y caiff Gweinidogion Cymru ei gwneud yn ofynnol, at ddibenion ymchwiliad o'r fath, i gyfrifon a mantolen y landlord cymdeithasol cofrestredig o dan sylw, neu landlordiaid cymdeithasol cofrestredig eraill a bennir gan Weinidogion Cymru, gael eu harchwilio gan archwilydd cymwysedig a benodir gan Weinidogion Cymru. Mae paragraff 20(5) yn caniatáu i'r person neu'r personau sy'n cynnal yr ymchwiliad wneud un adroddiad interim neu ragor, yn ystod yr ymchwiliad, ar faterion y mae'n ymddangos iddynt eu bod yn briodol.

53. As a result the position is as follows:
- If the Welsh Ministers are satisfied that an RSL has failed to comply with a requirement imposed by or under an enactment, the Welsh Ministers can appoint an individual as a manager of the RSL, or require the RSL to appoint an individual as a manager.
 - The appointment or requirement may relate to the management of the RSL generally, or specified affairs.
 - This paragraph does not apply where the failure relates only to the RSL's provision of housing in England.

Section 9 – Amalgamation effected by Welsh Ministers

54. Section 9 amends one of the thresholds at which the Welsh Ministers can amalgamate RSLs which are registered societies under paragraph 15H of Schedule 1. This paragraph applies to RSLs which are registered societies. One of the thresholds had been that the Welsh Ministers were satisfied that there had been misconduct or mismanagement in the RSL's affairs, it is now that they are satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment. The other threshold remains unchanged.

55. As a result, the position is as follows:
- If, as a result of an inquiry or an audit (under paragraph 20 or 22 of Schedule 1), the Welsh Ministers are satisfied that an RSL which is a registered society has failed to comply with a requirement imposed by or under an enactment, the Welsh Ministers may make and execute on behalf of the society an instrument providing for its amalgamation with another registered society.
 - This paragraph does not apply if the failure relates only to the RSL's provision of housing in England.

Powers exercisable in respect of inquiries, etc.

Section 10 – Inquiries and reports

56. Section 10 amends paragraphs 20, 23, 24 and 27 of Schedule 1.

Overview

57. Paragraph 20 of Schedule 1 gives the Welsh Ministers the power to direct an inquiry into the affairs of an RSL, the threshold for the exercise of this power is amended by section 10. Paragraph 22 of Schedule 1 of the 1996 Act states that for the purposes of such an inquiry, the Welsh Ministers may require the accounts and balance sheet of the RSL concerned, or other RSLs specified by Welsh Ministers, to be audited by a qualified auditor appointed by the Welsh Ministers. Paragraph 20(5) allows the person or persons conducting the inquiry, during the course of the inquiry, to make one or more interim reports on matters that appear to them to be appropriate.

Paragraff 20 o Atodlen 1

58. Gwneir diwygiadau i'r trothwy lle y gall Gweinidogion Cymru gyfarwyddo ymchwiliad i faterion landlord cymdeithasol cofrestredig o dan baragraff 15H o Atodlen 1. Y trothwy oedd bod Gweinidogion Cymru wedi eu bodloni y bu camymddwyn neu gamreoli o ran materion y landlord cymdeithasol cofrestredig, y trothwy yn awr yw bod Gweinidogion Cymru wedi eu bodloni bod y landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano.
59. O ganlyniad, caiff Gweinidogion Cymru gyfarwyddo ymchwiliad os yw'n ymddangos iddynt y gallai'r landlord cymdeithasol cofrestredig fod wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano.

Paragraff 23 o Atodlen 1

60. Gwneir diwygiadau i un o'r trothwyon lle y gall Gweinidogion Cymru wneud gorchmynion o dan baragraff 23 o Atodlen 1. Un o'r trothwyon oedd bod Gweinidogion Cymru wedi eu bodloni y bu camymddwyn neu gamreoli o ran materion y landlord cymdeithasol cofrestredig a bod angen cymryd camau ar unwaith i warchod buddiannau tenantiaid y landlord cymdeithasol cofrestredig neu i warchod asedau'r landlord cymdeithasol cofrestredig. Y trothwy yn awr yw eu bod wedi eu bodloni bod y landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano, a bod angen cymryd camau o'r fath. Nid yw'r trothwy arall wedi newid.
61. O ganlyniad, mae'r sefyllfa fel a ganlyn:
- Gall Gweinidogion Cymru wneud gorchmyn o dan baragraff 23 pan fo ymchwiliad wedi ei gyfarwyddo o dan baragraff 20 a bod gan Weinidogion Cymru sail resymol dros gredu bod landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano, a bod angen cymryd camau ar unwaith i warchod buddiannau tenantiaid y landlord cymdeithasol cofrestredig neu i warchod asedau'r landlord cymdeithasol cofrestredig.
 - Gall Gweinidogion Cymru wneud gorchmyn o dan baragraff 23 hefyd pan fo adroddiad interim wedi ei wneud o dan baragraff 20(5) a bod Gweinidogion Cymru, o ganlyniad iddo, wedi eu bodloni bod landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano.
 - Y gorchmynion y caniateir eu gwneud yw gorchmynion sy'n atal dros dro unrhyw swyddog, cyflogai neu asiant i'r landlord cymdeithasol cofrestredig y mae'n ymddangos i Weinidogion Cymru iddo fod gyfrifol am y methiant; sy'n cyfarwyddo unrhyw fanc neu berson arall sy'n dal arian neu warannau ar ran y landlord cymdeithasol cofrestredig i beidio ag ymadael â'r arian neu'r gwarannau heb gymeradwyaeth Gweinidogion Cymru; neu sy'n cyfyngu ar y trafodion y caniateir i'r landlord cymdeithasol cofrestredig ymrwymo iddynt, neu natur neu swm y taliadau y caniateir iddo eu gwneud, heb gymeradwyaeth Gweinidogion Cymru.

Paragraph 20 of Schedule 1

58. Amendments are made to the threshold at which the Welsh Ministers can direct an inquiry into the affairs of an RSL under paragraph 15H of Schedule 1. The threshold had been that the Welsh Ministers were satisfied that there had been misconduct or mismanagement in the RSL's affairs, this is now that they are satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment.
59. As a result, the Welsh Ministers may direct an inquiry if it appears to them that the RSL may have failed to comply with a requirement imposed by or under an enactment.

Paragraph 23 of Schedule 1

60. Amendments are made to one of the thresholds at which the Welsh Ministers can make orders under this paragraph 23 of Schedule 1. One of the thresholds was that the Welsh Ministers were satisfied that there had been misconduct or mismanagement in the RSL's affairs and immediate action was required to protect the interest of the RSL's tenants or the RSL's assets. The threshold is now that they are satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment and that such action is required. The other threshold remains unchanged.
61. As a result, the position is as follows:
- The Welsh Ministers can make an order under paragraph 23 where an inquiry has been directed under paragraph 20 and the Welsh Ministers have reasonable grounds to believe that that an RSL has failed to comply with a requirement imposed by or under an enactment, and that immediate action is needed to protect the interests of the tenants of the RSL or to protect the RSL's assets.
 - The Welsh Ministers can also make an order under paragraph 23 where an interim report has been made under paragraph 20(5) as a result of which the Welsh Ministers are satisfied that an RSL has failed to comply with a requirement imposed by or under an enactment.
 - The orders that can be made are ones suspending any officer, employee or agent of the RSL who appear to the Welsh Ministers to have been responsible for the failure; directing any bank or other person who holds money or securities on behalf of the RSL not to part with the money or securities without the approval of the Welsh Ministers; or restricting the transactions which may be entered into, or the nature or amount of the payments which may be made, by the RSL without the approval of the Welsh Ministers.

Paragraff 24 o Atodlen 1

62. Gwneir diwygiadau i'r trothwy lle y gall Gweinidogion Cymru wneud gorchmynion o dan baragraff 24 o Atodlen 1. Y trothwy oedd bod Gweinidogion Cymru wedi eu bodloni y bu camymddwyn neu gamreoli o ran materion y landlord cymdeithasol cofrestredig, ond yn awr y trothwy yw eu bod wedi eu bodloni bod y landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano.
63. O ganlyniad, mae'r sefyllfa o dan baragraff 24 fel a ganlyn:
- Caiff Gweinidogion Cymru wneud gorchmyn pan fônt wedi eu bodloni, yn dilyn ymchwiliad neu archwiliad (o dan baragraff 20 neu 22), bod landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano.
 - Y gorchmynion y caniateir eu gwneud yw gorchmynion sy'n diswyddo, neu'n atal dros dro am hyd at chwe mis, unrhyw swyddog, cyflogai neu asiant i'r landlord cymdeithasol cofrestredig y mae'n ymddangos i Weinidogion Cymru iddo fod yn gyfrifol am y methiant; gorchmynion sy'n cyfarwyddo unrhyw fanc neu berson arall sy'n dal arian neu warannau ar ran y landlord cymdeithasol cofrestredig i beidio ag ymadael â'r arian neu'r gwarannau heb gymeradwyaeth Gweinidogion Cymru; neu orchmynion sy'n cyfyngu ar y trafodion y caniateir i'r landlord cymdeithasol cofrestredig ymrwymo iddynt, neu natur neu swm y taliadau y caniateir iddo eu gwneud, heb gymeradwyaeth Gweinidogion Cymru.

Paragraff 27 o Atodlen 1

64. Gwneir diwygiad i un o'r trothwyon lle y gall Gweinidogion Cymru gyfarwyddo landlord cymdeithasol cofrestredig i wneud trosglwyddiad tir o dan baragraff 27 o Atodlen 1. Un o'r trothwyon oedd bod Gweinidogion Cymru wedi eu bodloni y bu camymddwyn neu gamreoli o ran materion y landlord cymdeithasol cofrestredig a bod angen cymryd camau ar unwaith i warchod buddiannau tenantiaid y landlord cymdeithasol cofrestredig neu asedau'r landlord cymdeithasol cofrestredig. Y trothwy yn awr yw eu bod wedi eu bodloni bod y landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano, a bod camau o'r fath yn ofynnol. Nid yw'r trothwy arall wedi newid.
65. O ganlyniad, y sefyllfa yw y caiff Gweinidogion Cymru gyfarwyddo trosglwyddiad pan fo Gweinidogion Cymru wedi eu bodloni, o ganlyniad i ymchwiliad o dan baragraff 20 neu archwiliad o dan baragraff 22, fod y landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano. Gall Gweinidogion Cymru wneud hynny hefyd os ydynt wedi eu bodloni y byddai'r modd y rheolir ei dir yn gwella pe bai'r tir yn cael ei drosglwyddo.

Hysbysiadau Gorfodi a Chosbau

Adran 11 - Hysbysiadau gorfodi

66. Mae adran 11 yn diwygio adran 50C o Ddeddf Tai 1996 sy'n rhoi'r pŵer i Weinidogion Cymru roi hysbysiad gorfodi i landlord cymdeithasol cofrestredig.

Paragraph 24 of Schedule 1

62. Amendments are made to the threshold at which the Welsh Ministers can make orders under this paragraph 24 of Schedule 1. The threshold had been that the Welsh Ministers were satisfied that there had been misconduct or mismanagement in the RSL's affairs, this is now that they are satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment.
63. As a result, the position under paragraph 24 is as follows:
- The Welsh Ministers may make an order where, following an inquiry or audit (under paragraph 20 or 22), they are satisfied that an RSL has failed to comply with a requirement imposed by or under an enactment.
 - The orders that can be made are ones removing, or suspending for up to six months, any officer, employee or agent of the RSL who appear to the Welsh Ministers to have been responsible for the failure; directing any bank or other person who holds money or securities on behalf of the RSL not to part with the money or securities without the approval of the Welsh Ministers; or restricting the transactions which may be entered into, or the nature or amount of the payments which may be made, by the RSL without the approval of the Welsh Ministers.

Paragraph 27 of Schedule 1

64. An amendment is made to one of the thresholds at which the Welsh Ministers may direct an RSL to make a transfer of land under paragraph 27 of Schedule 1. One of the thresholds was that the Welsh Ministers were satisfied that there had been misconduct or mismanagement in the RSL's affairs and immediate action was required to protect the interest of the RSL's tenants or the RSL's assets. The threshold is now that they are satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment and that such action is required. The other threshold remains unchanged.
65. As a result, the position is that the Welsh Ministers may direct a transfer where, as a result of an inquiry under paragraph 20 or an audit under paragraph 22, the Welsh Ministers are satisfied that that the RSL has failed to comply with a requirement imposed by or under an enactment. The Welsh Ministers may also do so if they are satisfied that the management of its land would be improved if it were transferred.

Enforcement Notices and Penalties

Section 11 - Enforcement notices

66. Section 11 amends section 50C of the Housing Act 1996 which gives the Welsh Ministers the power to give an enforcement notice to an RSL.

67. Mae adran 11 yn diwygio Achos 2 (sef un o 9 achos, y mae'n rhaid i Weinidogion Cymru fod wedi eu bodloni eu bod wedi digwydd cyn rhoi hysbysiad gorfodi). Yr achos oedd y bu camymddwyn neu gamreoli o ran materion landlord cymdeithasol cofrestredig. O ganlyniad i'r diwygiad, yr achos yn awr yw pan fo'r landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad neu oddi tano.
68. O ganlyniad i'r diwygio, mae'r sefyllfa fel a ganlyn:
- Gall Gweinidogion Cymru roi hysbysiad gorfodi i landlord cymdeithasol cofrestredig os ydynt wedi eu bodloni bod unrhyw un neu ragor o'r 9 achos a restrir yn gymwys.
 - Rhaid i Weinidogion Cymru fod wedi eu bodloni bod y landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano, a hefyd nad yw'r methiant yn dod o fewn unrhyw un neu ragor o'r 8 achos arall.
 - Rhaid i Weinidogion Cymru fod wedi eu bodloni hefyd fod rhoi hysbysiad gorfodi yn briodol (pa un a yw hynny'n debygol o fod yn ddigonol ynddo'i hun neu o ragflaenu camau pellach).
69. Ychwanegir is-adran (10) at adran 50C er mwyn sicrhau, pan fo achos arall yn gymwys, y dylid defnyddio'r seiliau a bennir yn yr achos hwnnw yn sail ar gyfer yr hysbysiad gorfodi. Er enghraifft, os cafodd safon a ddyroddwyd o dan adran 33A o Ddeddf 1996 ei thorri, Achos 1 fyddai'r sail briodol ar gyfer yr hysbysiad gorfodi. Ni fydd Achos 2 ond yn gymwys os nad yw unrhyw achos arall yn gymwys.

Adran 12 – Gofyniad i dalu cosb

70. Mae adran 12 yn diwygio adran 50H o Ddeddf 1996 sy'n rhoi'r pŵer i Weinidogion Cymru ei gwneud yn ofynnol i landlord cymdeithasol cofrestredig dalu cosb.
71. Mae adran 11 yn diwygio Achos 2 (sef un o 5 achos, y mae'n rhaid i Weinidogion Cymru fod wedi eu bodloni eu bod wedi digwydd cyn ei gwneud yn ofynnol i landlord cymdeithasol cofrestredig dalu cosb). Yr achos oedd y bu camymddwyn neu gamreoli o ran materion landlord cymdeithasol cofrestredig. O ganlyniad i'r diwygio, yr achos yn awr yw pan fo'r landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano.
72. O ganlyniad i'r diwygio, mae'r sefyllfa fel a ganlyn:
- Caiff Gweinidogion Cymru ei gwneud yn ofynnol i landlord cymdeithasol cofrestredig dalu cosb os ydynt wedi eu bodloni bod unrhyw un neu ragor o'r 5 achos a restrir yn gymwys.
 - Rhaid i Weinidogion Cymru fod wedi eu bodloni bod y landlord cymdeithasol cofrestredig wedi methu â chydymffurfio â gofyniad a osodir gan ddeddfiad, neu oddi tano, a hefyd nad yw'r methiant yn dod o fewn unrhyw un neu ragor o'r 5 achos arall.
 - Rhaid i Weinidogion Cymru fod wedi eu bodloni hefyd bod gosod cosb yn briodol (pa un a yw hynny'n rhan o ymateb sy'n cynnwys camau eraill ai peidio).

67. Section 11 amends Case 2 (one of 9 cases, of which the Welsh Ministers must be satisfied have arisen prior to giving an enforcement notice). The case was that there had been misconduct or mismanagement in the affairs of an RSL. As a result of the amendment, the case is now where the RSL has failed to comply with a requirement imposed by or under an enactment.
68. As a result of the amendment, the position is as follows:
- The Welsh Ministers are able to give an enforcement notice to an RSL if they are satisfied that any of the list of 9 cases applies.
 - The Welsh Ministers must be satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment, and also that the failure does not fall within any other of the 8 cases.
 - The Welsh Ministers must also be satisfied that giving an enforcement notice is appropriate (whether it is likely to be sufficient in itself or a prelude to further action).
69. Subsection (10A) is added to section 50C to ensure that where another case applies, the grounds specified in that case should be used as the basis for the enforcement notice. For example, if there has been a breach of a standard issued under section 33A of the 1996 Act, Case 1 would be the appropriate ground for the enforcement notice. Case 2 will only apply if no other case applies.

Section 12 - Requirement to pay a penalty

70. Section 12 amends section 50H of the 1996 Act, which gives the Welsh Ministers the power to require a registered social landlord to pay a penalty.
71. Section 11 amends Case 2 (one of 5 cases, of which the Welsh Ministers must be satisfied have arisen prior to requiring an RSL to pay a penalty). The case was that there had been misconduct or mismanagement in the affairs of an RSL. As a result of the amendment, the case is now where the RSL has failed to comply with a requirement imposed by or under an enactment.
72. As a result of the amendment, the position is as follows:
- The Welsh Ministers may require an RSL to pay a penalty if they are satisfied that any of the list of 5 cases applies.
 - The Welsh Ministers must be satisfied that the RSL has failed to comply with a requirement imposed by or under an enactment, and also that the failure does not fall within any other of the 5 cases.
 - The Welsh Ministers must also be satisfied that the imposition of a penalty is appropriate (whether or not as part of a response including other action).

73. Ychwanegir is-adran (6A) at adran 50H er mwyn sicrhau, pan fo achos arall yn gymwys, y dylid defnyddio'r seiliau a bennir yn yr achos hwnnw fel y sail ar gyfer y gosb. Er enghraifft, os cafodd safon a ddyroddwyd o dan adran 33A o Ddeddf 1996 ei thorri, Achos 1 fyddai'r sail briodol ar gyfer y gosb. Ni fydd Achos 2 ond yn gymwys os nad yw unrhyw achos arall yn gymwys.

Gwarediadau tir

Trosolwg

74. Cyn y diwygiadau a wneir gan y Ddeddf, roedd yn ofynnol i landlordiaid cymdeithasol cofrestredig gael cydsyniad Gweinidogion Cymru i warediadau tir o dan adran 9 o Ddeddf 1996, adran 171D o Ddeddf Tai 1985, ac adrannau 81 a 133 o Ddeddf Tai 1988. Mae adrannau 13 a 14 o'r Ddeddf yn dileu'r gofynion hynny ac yn gosod dyletswydd i hysbysu Gweinidogion Cymru.
75. Bydd adran 9 o Ddeddf 1996 (fel y'i diwygiwyd gan adran 14 o'r Ddeddf) yn gymwys i unrhyw warediad gan landlord cymdeithasol cofrestredig, sy'n golygu bod rhaid i'r landlord cymdeithasol cofrestredig hysbysu Gweinidogion Cymru am warediad a chydymffurfio ag unrhyw gyfarwyddydau hysbysu a roddir ganddynt.

Adran 13 - Gwaredu tir: cydsyniad

76. Mae adran 13 yn diwygio adran 171D o Ddeddf Tai 1985 (p. 68) ac yn diddymu adran 81, ac yn diwygio adran 133 o Ddeddf Tai 1988 (p. 50).

Adran 171D o Ddeddf Tai 1985

77. Mae adran 171D o Ddeddf Tai 1985 yn ymwneud â'r hawl i brynu a gadwyd. Mae'n bosibl bod tenantiaid landlordiaid cymdeithasol cofrestredig a oedd yn denantiaid diogel awdurdod lleol, ac a ddaeth yn denantiaid sicr am i berchnogaeth eu cartrefi gael ei throsglwyddo i landlord cymdeithasol cofrestredig, yn meddu ar yr hyn a elwir yn hawl i brynu a gadwyd.
78. Diwygir adran 171D o Ddeddf Tai 1985 i ddileu'r gofyniad i landlord cymdeithasol cofrestredig gael cydsyniad Gweinidogion Cymru cyn i'r landlord cymdeithasol cofrestredig waredu *tŷ annedd sy'n ddarostyngedig i'r hawl i brynu neu'r hawl i brynu a gadwyd*, oni bai bod y gwarediad i berson neu bersonau sy'n arfer yr hawliau hynny.

Adran 81 o Ddeddf Tai 1988

79. Mae adran 81 o Ddeddf Tai 1988 yn ymwneud â gwarediadau dilynol gan landlordiaid cymdeithasol cofrestredig pan oedd y gwarediad gwreiddiol yn warediad gan ymddiriedolaeth gweithredu tai.
80. O dan adran 81 o Ddeddf Tai 1988, os oedd ymddiriedolaeth gweithredu tai yn dymuno gwaredu tŷ a oedd yn ddarostyngedig i denantiaeth ddiogel neu denantiaeth ragarweiniol i landlord cymdeithasol cofrestredig, roedd rhaid i'r trawsgludiad gynnwys gofyniad ei bod yn ofynnol cael cydsyniad Gweinidogion Cymru (os oedd y tir yng Nghymru) neu'r Ysgrifennydd Gwladol (os oedd y tir yn Lloegr) pe bai'r landlord cymdeithasol cofrestredig yn dymuno gwaredu'r tŷ wedi hynny.

73. Subsection (6A) is added to section 50H to ensure that where another case applies, the grounds specified in that case should be used as the basis for the penalty. For example, if there has been a breach of a standard issued under section 33A of the 1996 Act, Case 1 would be the appropriate ground for the penalty. Case 2 will only apply if no other case applies.

Disposals of land

Overview

74. Prior to amendments being made by the Act, RSLs were required to obtain the consent of the Welsh Ministers for disposals of land under section 9 of the 1996 Act, section 171D of the Housing Act 1985, and sections 81 and 133 of the Housing Act 1988. Sections 13 and 14 of the Act remove those requirements and impose a duty to notify the Welsh Ministers.
75. Section 9 of the 1996 Act (as amended by section 14 of the Act) will apply to any disposal by an RSL, meaning the RSL must notify the Welsh Ministers of a disposal and comply with any notification directions given by them.

Section 13 –Disposal of land: consent

76. Section 13 amends section 171D of the Housing Act 1985 (c. 68) and repeals section 81, and amends section 133 of the Housing Act 1988 (c. 50).

Section 171D of the Housing Act 1985

77. Section 171D of the Housing Act 1985 relates to the preserved right to buy. Tenants of RSLs who were previously secure tenants of a local authority and became assured tenants because ownership of their homes were transferred to an RSL may have what is known as the preserved right to buy.
78. Amendment is made to section 171D of the Housing Act 1985 to remove the requirement of an RSL to obtain the consent of the Welsh Ministers before disposal by the RSL of a dwelling house which is subject to the right to buy or the preserved right to buy, unless the disposal is to a person or persons exercising those rights.

Section 81 of the Housing Act 1988

79. Section 81 of the Housing Act 1988 relates to subsequent disposals by RSLs where the original disposal was by a housing action trust.
80. Under section 81 of the Housing Act 1988, if a housing action trust wished to dispose of a house which was the subject of a secure tenancy or an introductory tenancy to an RSL, the conveyance needed to include a requirement that the consent of the Welsh Ministers (if the land was in Wales) or the Secretary of State (if the land was in England) was required in the event that the RSL wished subsequently to dispose of the house.

81. Mae adran 81 yn cael ei diddymu ac effaith hynny yw na fydd yn ofynnol i landlordiaid cymdeithasol cofrestredig gael cydsyniad Gweinidogion Cymru neu'r Ysgrifennydd Gwladol cyn iddynt waredu tŷ o'r math y cyfeirir ato yn y paragraff uchod.

Adran 133 o Ddeddf Tai 1988

82. Mae adran 133 o Ddeddf Tai 1988 yn ymwneud â gwarediadau dilynol gan landlordiaid cymdeithasol cofrestredig pan oedd y gwarediad gwreiddiol yn warediad gan awdurdod lleol.
83. O dan adran 133 o Ddeddf Tai 1988, os oedd landlord cymdeithasol cofrestredig wedi caffael tir neu dŷ *gan awdurdod lleol o dan adran 32 neu 43 o Ddeddf Tai 1985*, ac nad oedd y cydsyniad oedd yn ymwneud â'r gwarediad gwreiddiol yn darparu fel arall, roedd rhaid cael cydsyniad Gweinidogion Cymru (os oedd y tir yng Nghymru) neu'r Ysgrifennydd Gwladol (os oedd y tir yn Lloegr) pe digwyddai bod y landlord cymdeithasol cofrestredig yn dymuno gwaredu'r tŷ wedi hynny.
84. Gwneir diwygiadau i adran 133 o Ddeddf Tai 1988 i ddileu'r gofyniad i landlord cymdeithasol cofrestredig gael cydsyniad Gweinidogion Cymru neu'r Ysgrifennydd Gwladol cyn gwaredu tir neu dŷ o'r math y cyfeirir ato yn y paragraff uchod.

Adran 14 – Gwaredu tir: hysbysu

85. Mae adran 14 yn diwygio adran 9 o Ddeddf 1996 mewn perthynas â gwaredu tir gan landlord cymdeithasol cofrestredig er mwyn dileu'r gofyniad i gael cydsyniad Gweinidogion Cymru wrth waredu tir, ac yn lle hynny gosodir gofyniad i hysbysu Gweinidogion Cymru am unrhyw warediad o'r fath.
86. O ganlyniad, mae'r sefyllfa fel a ganlyn:
- O dan adran 8 o Ddeddf 1996, gall landlord cymdeithasol cofrestredig waredu tir y mae'n ei ddal fel y gwêl yn dda. Ond os yw landlord cymdeithasol cofrestredig yn dymuno gwaredu tir, rhaid iddo hysbysu Gweinidogion Cymru a chydymffurfio ag unrhyw gyfarwyddydau hysbysu a roddir ganddynt.
 - Caiff Gweinidogion Cymru ddyroddi cyfarwyddydau ynghylch sut y dylid eu hysbysu. Caiff cyfarwyddyd ymwneud â sut a phryd y mae'n rhaid rhoi hysbysiad, neu'r hyn y mae'n rhaid iddo ei gynnwys, neu caiff bennu terfyn amser ar gyfer rhoi hysbysiad.
 - Gall Gweinidogion Cymru bennu i ba landlordiaid cymdeithasol cofrestredig y mae cyfarwyddyd yn gymwys ac i ba warediadau neu fathau o warediadau y mae'n gymwys. Gall cyfarwyddyd hefyd hepgor gofyniad i hysbysu Gweinidogion Cymru neu ddirymu neu amrywio cyfarwyddyd blaenorol.
 - Rhaid i landlord cymdeithasol cofrestredig gydymffurfio â chyfarwyddyd sy'n gymwys iddo.

Adran 15 – Cronfa enillion o warediadau

87. Mae adran 15 yn hepgor adrannau 24 i 26 o Ddeddf Tai 1996.
88. Caiff adrannau 24 i 26 eu diddymu er mwyn dileu'r gofyniad i ddangos enillion o warediadau ar wahân mewn cyfrifon, a dileu gallu Gweinidogion Cymru i benderfynu sut y dylid defnyddio enillion o'r fath.

These notes refer to the Regulation of Registered Social Landlords (Wales) Act 2018 (anaw 4) which received Royal Assent on 13 June 2018.

81. Section 81 is repealed with the effect that RSLs are not required to obtain the consent of the Welsh Ministers or the Secretary of State before they dispose of the a house referred to in the paragraph above.

Section 133 of the Housing Act 1988

82. Section 133 of the Housing Act 1988 relates to subsequent disposals by RSLs where the original disposal was by a local authority.
83. Under section 133 of the Housing Act 1988, if an RSL had acquired land or a house from a local authority under section 32 or 43 of the Housing Act 1985, and the consent relating to the original disposal did not provide otherwise, the consent of the Welsh Ministers (if the land was in Wales) or the Secretary of State (if the land was in England) was required in the event that the RSL wished subsequently to dispose of the house
84. Amendments are made to section 133 of the Housing Act 1988 to remove the requirement of an RSL to obtain the consent of the Welsh Ministers or the Secretary of State before disposal of land or a house referred to in the paragraph above.

Section 14 - Disposal of land: notification

85. Section 14 amends section 9 of the 1996 Act relating to disposal of land by an RSL to remove the requirement to obtain the consent of the Welsh Ministers on the disposal of land, and instead impose a requirement to notify the Welsh Ministers on any such disposal.
86. As a result, the position is now as follows:
- Under section 8 of the 1996 Act, an RSL can dispose of land it holds in a manner which it thinks fit. But, if an RSL wants to dispose of land, it must notify the Welsh Ministers and comply with any notification directions given by them.
 - The Welsh Ministers may issue directions about how they should be notified. A direction may be about how and when notification must be given, or what it must contain or may set a deadline for giving a notification.
 - The Welsh Ministers can specify to which RSLs a direction applies and to which disposals or types of disposals it applies. A direction can also dispense with a requirement to notify the Welsh Ministers or revoke or vary a previous direction.
 - An RSL must comply with a direction which applies to it.

Section 15 – Disposal Proceeds fund

87. Section 15 omits sections 24 to 26 of the Housing Act 1996.
88. Sections 24 to 26 are repealed in order to remove the requirement to show disposal proceeds separately in accounts, and to remove the ability of the Welsh Ministers to determine how such proceeds should be used.

Aelodaeth o fwrdd a hawliau pleidleisio

Adran 16 – Cyfyngiad ar aelodaeth awdurdodau lleol o fwrdd a hawliau pleidleisio

89. Mae Atodlen 1 yn mewnosod Pennod 1A newydd yn Rhan 1 o Ddeddf 1996 (sector rhentu cymdeithasol a reoleiddir gan Weinidogion Cymru), er mwyn gosod cyfyngiadau ar y rheolaeth y caniateir i awdurdodau lleol ei chael ar landlordiaid cymdeithasol cofrestredig. Ceir nodiadau pellach ym mharagraffau 92-105 isod.

Adran 17 – Mân ddiwygiadau a diwygiadau canlyniadol

90. Mae Atodlen 2 yn nodi'r diwygiadau a wneir i ddeddfwriaeth o ganlyniad i'r darpariaethau eraill a nodir yn y Ddeddf hon.

Adran 18 – Pŵer i wneud diwygiadau canlyniadol pellach etc.

91. Mae Adran 18 yn darparu y caiff Gweinidogion Cymru wneud diwygiadau canlyniadol neu at ddiben rhoi effaith lawn i unrhyw ddarpariaeth a wneir gan y Ddeddf hon, neu oddi tani.

Adran 19 – Dod i rym

92. Bydd darpariaethau'r Ddeddf yn dod i rym yn unol â gorchymyn cychwyn a wneir gan Weinidogion Cymru, ac eithrio adrannau 19 ac 20 sy'n dod i rym drannoeth y diwrnod y mae'r Ddeddf yn cael y Cydsyniad Brenhinol.

Adran 20 – Entw byr

93. Mae'r adran hon yn cadarnhau mai enw'r Ddeddf yw Deddf Rheoleiddio Landlordiaid Cymdeithasol Cofrestredig (Cymru) 2018.

Atodlen 1

94. Cyflwynir Atodlen 1 gan adran 16.

95. Mae'r Atodlen hon yn cyflwyno Pennod 1A newydd i Ran 1 o Ddeddf 1996. Mae pennod 1A yn cynnwys adrannau 7A i 7J.

96. Mae'r Bennod hon yn cyfyngu ar ddylanwad awdurdod lleol dros fwrdd landlord cymdeithasol cofrestredig, er enghraifft, o ran neilltuo lleoedd iddynt ar fyrddau landlordiaid cymdeithasol cofrestredig a'r hawl i fetu dros faterion penodol, ac yn dileu ei hawliau pleidleisio fel aelod.

97. Mae adran 7A yn diffinio'r termau allweddol at ddibenion Pennod 1A.

98. O dan adran 7B, ni chaniateir gwneud unrhyw benodiad i fwrdd landlord cymdeithasol cofrestredig a fyddai'n golygu bod dros 24% o aelodau bwrdd y landlord cymdeithasol cofrestredig yn benodeion llywodraeth leol. Nid oes unrhyw effaith i unrhyw benodiad a wneir i'r bwrdd a fyddai, oni bai am adran 7B, yn golygu bod dros 24% o aelodau'r bwrdd yn benodeion llywodraeth leol.

99. Gwneir darpariaeth yn ogystal sy'n golygu, i'r graddau bod unrhyw ddarpariaeth yng nghyfansoddiad neu reolau landlord cymdeithasol cofrestredig yn gwrthdaro â'r gofyniad hwn, na fydd y ddarpariaeth honno yn cael unrhyw effaith. Gweler hefyd adran 7I mewn cysylltiad â darpariaethau mewn cytundebau nad ydynt i gael unrhyw effaith.

Board membership and voting rights

Section 16 - Limit on local authority board membership and voting rights

89. Schedule 1 inserts a new Chapter 1A into Part 1 of the 1996 Act (social rented sector regulated by the Welsh Ministers), to place restrictions on the control that local authorities may have on RSLs. Further notes are set out in paragraphs 92-105 below.

Section 17 - Minor and consequential amendments

90. Schedule 2 sets out amendments made to legislation as a consequence of the other provisions set out in this Act.

Section 18- Power to make further consequential amendments etc

91. Section 18 provides that the Welsh Ministers may make amendments which are consequential on or for the purpose of giving full effect to any provision made by or under this Act.

Section 19 - Coming into force

92. Provisions of the Act will come into force in accordance with a commencement order made by Welsh Ministers, other than sections 19 and 20 which come into force on the day after the day on which the Act receives Royal Assent.

Section 20 – Short title

93. This section establishes the Act's title as the Regulation of Registered Social Landlords (Wales) Act 2018.

Schedule 1

94. Schedule 1 is introduced by section 16.
95. The Schedule introduces a new Chapter 1A into Part 1 of the 1996 Act. Chapter 1A contains sections 7A to 7J.
96. This Chapter limits a local authority's influence over the board of an RSL, for example, having reserved places on the board and the power of veto over certain matters, and removes their voting rights as member.
97. Section 7A defines the key terms for the purposes of Chapter 1A.
98. Under section 7B, no appointment may be made to a board of an RSL which would result in local authority appointees amounting to more than 24% of the board members of the RSL. Any appointment made to the board which would, but for section 7B, give rise to more than 24% of the board members being local authority appointees has no effect.
99. In addition, provision is made so that to the extent that any provision in the constitution or rules of an RSL conflicts with this requirement, that provision has no effect. See also section 7I in respect of provisions in agreements which are to have no effect.

100. Mae adran 7C yn nodi'r weithdrefn y mae landlordiaid cymdeithasol cofrestredig ac awdurdodau lleol i'w dilyn i leihau nifer y penodeion awdurdod lleol ar fwrdd landlord cymdeithasol cofrestredig er mwyn sicrhau nad yw dros 24% o aelodau bwrdd y landlord cymdeithasol cofrestredig yn benodeion awdurdod lleol (y terfyn o 24%). Os oes angen i landlord cymdeithasol cofrestredig ddiswyddo aelod o'i fwrdd i gydymffurfio â'r terfyn o 24%, mae ganddo bedwar mis i wneud hynny o'r dyddiad y mae adran 7C yn dod i rym. Fodd bynnag, mae is-adran (3) o adran 7C yn darparu na all y landlord cymdeithasol cofrestredig ddiswyddo aelod hyd ddau fis ar ôl i adran 7C ddod i rym. Diben y cyfyngiad hwn yw rhoi cyfle i'r awdurdod lleol a benododd yr aelodau enwebu pa un neu ragor o'i benodeion sydd i'w diswyddo o dan adran 7C (gweler y paragraff nesaf).
101. Gall awdurdod lleol enwebu pa rai o blith y penodeion awdurdod lleol sydd i'w diswyddo er mwyn cydymffurfio â'r terfyn o 24%, ond rhaid iddynt wneud hynny o fewn dau fis i'r adeg y daw adran 7C i rym. Os yw awdurdod lleol yn enwebu penodeion i gael eu diswyddo, rhaid i'r penodeion hynny gael eu diswyddo gan y landlord cymdeithasol cofrestredig, a chaiff y landlord cymdeithasol cofrestredig eu diswyddo heb orfod aros am ddau fis o'r dyddiad y daw adran 7C i rym. Os nad yw awdurdod lleol yn enwebu unrhyw un i'w ddiswyddo cyn diwedd y cyfnod o ddau fis, bydd gan landlord cymdeithasol cofrestredig ddau fis pellach i ddiswyddo penodeion o'r fath er mwyn cydymffurfio â'r terfyn o 24%. Os na cheir enwebiad gan awdurdod lleol, dylid dethol y penodeion sydd i'w diswyddo drwy bleidlais fwyafrifol o blith aelodau'r bwrdd nad ydynt yn benodeion awdurdod lleol (gweler adran 7D).
102. O dan adran 7E, os yw cyfansoddiad neu reolau landlord cymdeithasol cofrestredig yn datgan bod rhaid i o leiaf un penodai llywodraeth leol neu ragor fod yn bresennol er mwyn cael cworwm mewn cyfarfod, nid yw'r ddarpariaeth honno yn cael unrhyw effaith. Gweler hefyd adran 7I mewn cysylltiad â darpariaethau mewn cytundebau nad ydynt i gael unrhyw effaith.
103. O dan adran 7F, os ceir darpariaeth yng nghyfansoddiad neu reolau landlord cymdeithasol cofrestredig sy'n ei gwneud yn ofynnol cael dros 75% o'r pleidleisiau a fwriwyd i basio penderfyniad, bydd y ddarpariaeth honno'n cael effaith fel pe bai'n ei gwneud yn ofynnol cael 75% yn unig o'r pleidleisiau a fwriwyd i basio'r penderfyniad. Gweler hefyd adran 7I mewn cysylltiad â darpariaethau mewn cytundebau nad ydynt i gael unrhyw effaith.
104. O dan adran 7G, os ceir darpariaeth yng nghyfansoddiad neu reolau landlord cymdeithasol cofrestredig sy'n ei gwneud yn ofynnol cael cydsyniad yr awdurdod lleol neu benodai'r awdurdod lleol cyn y gellir newid rheolau neu gyfansoddiad y landlord cymdeithasol cofrestredig, neu ddarpariaeth sy'n rhoi *pŵer fetu* i awdurdod lleol neu benodai awdurdod lleol, nid yw'r ddarpariaeth honno yn cael unrhyw effaith. Gweler hefyd adran 7I mewn cysylltiad â darpariaethau mewn cytundebau nad ydynt i gael unrhyw effaith.

100. Section 7C sets out the procedure for RSLs and local authorities to follow to reduce the number of local authority appointees on an RSL board to ensure that no more than 24% of the members of the board of the RSL are local authority appointees (the 24% limit). If an RSL needs to remove a member from its board to comply with the 24% limit it has four months to do so from the date section 7C comes into force. However, subsection (3) of section 7C provides that the RSL cannot remove a member until two months after section 7C comes into force. The purpose of this restriction is to give the local authority which appointed the members the opportunity to nominate which of its appointees are to be removed under section 7C (see next paragraph).
101. A local authority can nominate which of the local authority appointees are to be removed in order to comply with the 24% limit, but must do so within two months of section 7C coming into force. If a local authority nominates appointees to be removed, those appointees must be removed by the RSL, and the RSL may carry out the removal without having to wait for two months from the date section 7C comes into force. If a local authority does not nominate anyone for removal before the end of the two months, an RSL will have a further two months to remove such appointees to comply with the 24% limit. In the absence of a local authority nomination, the appointees to be removed should be selected by a majority vote of the non-local authority board members (see section 7D).
102. Under section 7E, if an RSL's constitution or rules state that there must be at least one or more local authority appointees present in order for a meeting to be quorate, that provision is of no effect. See also section 7I in respect of provisions in agreements which are to have no effect.
103. Under section 7F, if there is provision in an RSL's constitution or rules which requires more than 75% of the votes cast to pass a resolution, that provision will have effect as if it requires only 75% of the votes cast to pass the resolution. See also section 7I in respect of provisions in agreements which are to have no effect.
104. Under section 7G, if there is provision in an RSL's constitution or rules which requires the consent of the local authority or the local authority appointee before the RSL's rules or constitution can be changed, or provision which gives a local authority or local authority appointee the power of veto, that provision is of no effect. See also section 7I in respect of provisions in agreements which are to have no effect.

105. O dan adran 7H, os ceir darpariaeth yn rheolau neu gyfansoddiad landlord cymdeithasol cofrestredig sy'n rhoi'r hawl i awdurdod lleol bleidleisio ar benderfyniadau'r landlord cymdeithasol cofrestredig yn rhinwedd aelodaeth yr awdurdod lleol o'r landlord cymdeithasol cofrestredig, nid yw'r ddarpariaeth honno yn cael unrhyw effaith. Mae hyn yn dileu hawliau pleidleisio awdurdodau lleol fel aelodau o landlord cymdeithasol cofrestredig. Gweler hefyd adran 7I mewn cysylltiad â darpariaethau mewn cytundebau nad ydynt i gael unrhyw effaith.
106. O dan adran 7I, ni fydd darpariaeth mewn cytundeb rhwng landlord cymdeithasol cofrestredig a pherson arall a fyddai, pe bai'n cael ei chynnwys yn rheolau neu gyfansoddiad landlord cymdeithasol cofrestredig, yn cael ei thrin fel pe na bai'n cael unrhyw effaith oherwydd y Bennod hon, yn cael unrhyw effaith. Bydd hyn yn cwmpasu, er enghraifft, unrhyw gytundebau contractiol yr ymrwymwyd iddynt rhwng awdurdod lleol a landlord cymdeithasol cofrestredig o ganlyniad i drosglwyddo stoc.
107. Caiff Gweinidogion Cymru ddarparu, drwy orchymyn, nad yw unrhyw un neu ragor o'r darpariaethau ym Mhennod 1A, neu nad yw yr un ohonynt, yn gymwys i landlordiaid cymdeithasol cofrestredig sy'n is-gyrrff a reolir yn llwyr gan awdurdod lleol.

Atodlen 2

108. Mae Atodlen 2 yn nodi mân ddiwygiadau a diwygiadau canlyniadol a wneir i ddeddfwriaeth o ganlyniad i'r darpariaethau eraill a nodir yn y Ddeddf hon.

Deddf Diwygio Cyfraith Lesddaliad, Tai a Datblygu Trefol 1993 (p. 28)

109. Caiff y cyfeiriadau at y gofyniad i landlordiaid cymdeithasol cofrestredig gael cydsyniad Gweinidogion Cymru i waredu eiddo eu dileu o Atodlen 10 i Ddeddf Diwygio Cyfraith Lesddaliad, Tai a Datblygu Trefol 1993 (p. 28), gan fod y gofyniad hwn wedi ei ddileu.

Deddf Tai 1996 (p. 52)

110. Mae adrannau 8(3), 9, 10, 11(1), 12A(1) a 13(1) o Ddeddf 1996 wedi eu diwygio er mwyn dileu cyfeiriadau at y gofyniad i landlordiaid cymdeithasol cofrestredig gael cydsyniad Gweinidogion Cymru, gan fod y gofyniad hwn wedi ei ddileu a'i ddisodli gan ddyletswydd i hysbysu Gweinidogion Cymru.
111. Mae adran 16 o Ddeddf 1996 wedi ei diwygio er mwyn adlewyrchu'r ffaith na fydd y gronfa enillion o warediadau yn bodoli mwyach.
112. Mae adran 36 o Ddeddf 1996 yn caniatáu i Weinidogion Cymru ddyroddi canllawiau mewn cysylltiad â landlordiaid cymdeithasol cofrestredig yn rheoli llety tai yn Lloegr. Mae is-adran (7) wedi ei dileu er mwyn dileu'r cyfeiriadau at y cysyniad o "misconduct and mismanagement", sydd wedi eu dileu gan y Ddeddf.
113. Gwneir diwygiadau i adran 42 er mwyn adlewyrchu'r ffaith fod adran 10 o Ddeddf 1996 wedi ei dileu.
114. Mae adran 52 wedi ei diwygio er mwyn cynnwys cyfeiriad at y *pŵer newydd* i wneud gorchymyn ym Mhennod 1A o Ddeddf 1996.

These notes refer to the Regulation of Registered Social Landlords (Wales) Act 2018 (anaw 4) which received Royal Assent on 13 June 2018.

105. Under section 7H, if there is a provision in the rules or constitution of an RSL which gives a local authority the right to vote on resolutions of the RSL in the local authority's capacity as member of the RSL, that provision is of no effect. This removes the voting rights of local authorities as members of an RSL. See also section 7I in respect of provisions in agreements which are to have no effect.
106. Under section 7I, a provision in an agreement between an RSL and another person which would, if it were included in an RSL's rules or constitution, be treated as having no effect because of this Chapter, will have no effect. This will capture, for example, any contractual agreements entered into between a local authority and an RSL as a result of stock transfer.
107. The Welsh Ministers may, by order, provide that any or all of the provisions of Chapter 1A do not apply to RSLs which are wholly-controlled local authority subsidiaries.

Schedule 2

108. Schedule 2 sets out minor and consequential amendments made to legislation as a consequence of the other provisions set out in this Act.

Leasehold Reform, Housing and Urban Development Act 1993 (c. 28)

109. References to the requirement for RSLs to obtain the consent of the Welsh Ministers for disposal of property are removed from Schedule 10 to the Leasehold Reform, Housing and Urban Development Act 1993 (c. 28) because this requirement has been removed.

Housing Act 1996 (c. 52)

110. Sections 8(3), 9, 10, 11(1), 12A(1) and 13(1) of the 1996 Act are amended in order to remove references to the requirement for RSLs to obtain the consent of the Welsh Ministers because this requirement has been removed and replaced with a duty to notify the Welsh Ministers.
111. Section 16 of the 1996 Act is amended to reflect the fact that the disposal proceeds fund will cease to exist.
112. Section 36 of the 1996 Act allows the Welsh Ministers to issue guidance with respect to the management of housing accommodation in England by RSLs. Subsection (7) is removed to remove references to the concept of "misconduct and mismanagement" which has been removed by the Act.
113. Amendments are made to section 42 to reflect the removal of section 10 of the 1996 Act.
114. Section 52 is amended to include reference to the new order making power in Chapter 1A of the 1996 Act.

Mae'r nodiadau hyn yn cyfeirio at Ddeddf Rheoleiddio Landlordiaid Cymdeithasol Cofrestredig Cymru) 2018 (dccc 4) a gafodd y Cydsyniad Brenhinol ar 13 Mehefin 2018.

115. Mae adran 63 o Ddeddf 1996 wedi ei diwygio er mwyn ychwanegu diffiniad o "notify", sef "notify in writing".
116. Yn Atodlen 1 i Ddeddf 1996, gwneir diwygiadau i ddileu'r cyfeiriadau at "misconduct or mismanagement".

COFNOD Y TRAFODION YNG NGHYNULLIAD CENEDLAETHOL CYMRU

117. Mae'r tabl a ganlyn yn nodi'r dyddiadau ar gyfer pob cyfnod o hynt y Ddeddf drwy Gynulliad Cenedlaethol Cymru. Gellir cael Cofnod y Trafodion a rhagor o wybodaeth am hynt y Ddeddf hon ar wefan Cynulliad Cenedlaethol Cymru ar: <http://www.senedd.cynulliad.cymru/mgIssueHistoryHome.aspx?IId=19962>

Cyfnod	Dyddiad
Cyflwynwyd	16 Hydref 2017
Cyfnod 1 Dadl	13 Chwefror 2018
Cyfnod 2 Pwyllgor Craffu - ystyried y gwelliannau	12 Mawrth 2018
Cyfnod 3 Cyfarfod Llawn - ystyried y gwelliannau	24 Ebrill 2018
Cyfnod 4 Cymeradwywyd gan y Cynulliad	8 Mai 2018
Y Cydsyniad Brenhinol	13 Mehefin 2018

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These notes refer to the Regulation of Registered Social Landlords (Wales) Act 2018 (anaw 4) which received Royal Assent on 13 June 2018.

115. Section 63 of the 1996 Act is amended to add a definition of “notify” as “notify in writing”.
116. In Schedule 1 to the 1996 Act, amendments are made to remove references to “misconduct or mismanagement”.

RECORD OF PROCEEDINGS IN NATIONAL ASSEMBLY FOR WALES

117. The following table sets out the dates for each stage of the Act’s passage through the National Assembly for Wales. The Record of Proceedings and further information on the passage of this Act can be found on the National Assembly for Wales’ website at: <http://www.senedd.assembly.wales/mgIssueHistoryHome.aspx?Id=19962>

Stage	Date
Introduced	16 October 2017
Stage 1 - Debate	13 February 2018
Stage 2 Scrutiny Committee - consideration of amendments	12 March 2018
Stage 3 Plenary - consideration of amendments	24 April 2018
Stage 4 Approved by the Assembly	8 May 2018
Royal Assent	13 June 2018

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