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2023 Rhif 1303 (Cy. 233)

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**ADEILADU AC ADEILADAU,
CYMRU**

**BUILDING AND BUILDINGS,
WALES**

**Rheoliadau'r Proffesiwn Rheolaeth
Adeiladu (Taliadau) (Cymru) 2023**

**The Building Control Profession
(Charges) (Wales) Regulations
2023**

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn gwneud darpariaeth ar gyfer adennill taliadau am gyflawni swyddogaethau ac mewn cysylltiad â chyflawni swyddogaethau Gweinidogion Cymru o dan Ran 2A o Ddeddf Adeiladu 1984 ("Rhan 2A"). Mae Rhan 2A, sydd wedi ei mewnosod gan adran 42 o Ddeddf Diogelwch Adeiladu 2022, yn gwneud darpariaeth mewn perthynas â rheoleiddio'r proffesiwn rheolaeth adeiladu a goruchwylio'r rheini sy'n arfer swyddogaethau rheolaeth adeiladu.

Mae rheoliad 3 yn awdurdodi Gweinidogion Cymru i adennill taliadau am y swyddogaethau neu mewn cysylltiad â'r swyddogaethau a restrir yn y rheoliad hwnnw ("swyddogaethau y gellir codi tâl amdanynt").

Mae rheoliad 4 yn darparu bod rhaid i swm unrhyw dâl gael ei bennu yn unol â chynllun codi tâl a wneir ac a gyhoeddir gan Weinidogion Cymru. O dan y cynllun, rhaid i'r taliadau sy'n daladwy, i'r graddau y bo'n bosibl a chan gymryd un flwyddyn gydag un arall, adlewyrchu'r costau yr eir iddynt wrth ymgymryd â'r swyddogaethau y gellir codi tâl amdanynt. Mae darpariaeth wedi ei gwneud ar gyfer diwygio'r cynllun codi tâl ac ar gyfer cyhoeddi'r cynllun ac unrhyw ddiwygiadau.

Mae rheoliadau 5 i 7 yn pennu'r amgylchiadau y mae person penodol yn gyfrifol am dalu'r taliadau a bennir yn y rheoliadau hynny oddi tanynt.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the recovery of charges for and in connection with the performance of the Welsh Ministers' functions under Part 2A of the Building Act 1984 ("Part 2A"). Part 2A, which is inserted by section 42 of the Building Safety Act 2022, makes provision in relation to the regulation of the building control profession and oversight of those exercising building control functions.

Regulation 3 authorises the Welsh Ministers to recover charges for or in connection with the functions listed in that regulation ("chargeable functions").

Regulation 4 provides that the amount of any charge must be determined in accordance with a charging scheme made and published by the Welsh Ministers. Under the scheme the charges payable must, as far as possible and taking one year with another, reflect the costs incurred in undertaking the chargeable functions. Provision is made for the charging scheme to be amended and for the publication of the scheme and any amendments.

Regulations 5 to 7 specify the circumstances in which a particular person is responsible for paying the charges specified in those regulations.

Mae rheoliad 8 yn gwneud darpariaeth mewn perthynas â thalu ac adennill taliadau, gan gynnwys darpariaeth mewn perthynas ag amserlenni a datganiadau gwaith.

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 mae wedi ei gyhoeddi ar www.llyw.cymru.

Regulation 8 makes provision in relation to the payment and recovery of charges, including provision in relation to timings and statements of work.

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.

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

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

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir iddynt gan adrannau 105B(1), (2)(b) a (3) a 120A(2)(a) a (b) o Ddeddf Adeiladu 1984(1), yn gwneud y Rheoliadau a ganlyn.

The Welsh Ministers, in exercise of the powers conferred on them by sections 105B(1), (2)(b) and (3) and 120A(2)(a) and (b) of the Building Act 1984(1), make the following Regulations.

Yn unol ag adran 120C(1)(2) o Ddeddf Adeiladu 1984, mae Gweinidogion Cymru wedi ymgynghori â'r personau hynny y maent yn ystyried eu bod yn briodol.

In accordance with section 120C(1)(2) of the Building Act 1984 the Welsh Ministers have consulted such persons as they consider appropriate.

Enwi, cymhwyso a dod i rym

Title, application and coming into force

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau'r Proffesiwn Rheolaeth Adeiladu (Taliadau) (Cymru) 2023.

1.—(1) The title of these Regulations is the Building Control Profession (Charges) (Wales) Regulations 2023.

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

(2) These Regulations apply in relation to Wales.

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

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

(1) 1984 p. 55. Mewnosodwyd adrannau 105B a 120A gan adran 57 o Ddeddf Diogelwch Adeiladau 2022 (p. 30) a pharagraff 77 o Atodlen 5 iddi yn eu trefn. Mae adran 105B(1) yn rhoi pŵer i wneud rheoliadau i'r "appropriate national authority", sydd wedi ei ddiffinio yn adran 126 o Ddeddf Adeiladu 1984 yn Weinidogion Cymru, o ran Cymru.
(2) Mewnosodwyd adran 120C gan baragraff 77 o Atodlen 5 i Ddeddf Diogelwch Adeiladau 2022.

(1) 1984 c. 55. Sections 105B and 120A were inserted by section 57 and paragraph 77 of Schedule to the Building Safety Act 2022 (c. 30) respectively. Section 105B(1) confers a regulation making power on the "appropriate national authority", which is defined in section 126 of the Building Act 1984 as, in relation to Wales, the Welsh Ministers.
(2) Section 120C was inserted by paragraph 77 of Schedule 5 to the Building Safety Act 2022.

Dehongli

2.—(1) Yn y Rheoliadau hyn—

ystyr “cynllun codi tâl” (“*charging scheme*”) yw cynllun a wneir o dan reoliad 4(1);

ystyr “y Ddeddf” (“*the Act*”) yw Deddf Adeiladu 1984;

ystyr “swyddogaethau y gellir codi tâl amdanynt” (“*chargeable functions*”) yw’r swyddogaethau a nodir yn rheoliad 3(2).

(2) Yn ddarostyngedig i baragraff (1), mae i eiriau ac ymadroddion Cymraeg yn y Rheoliadau hyn sy’n cyfateb i eiriau ac ymadroddion Saesneg a ddefnyddir yn Neddf Adeiladu 1984 yr un ystyr â’r geiriau a’r ymadroddion hynny yn y Ddeddf honno.

Swyddogaethau y gellir codi tâl amdanynt

3.—(1) Caiff Gweinidogion Cymru adennill taliadau am gyflawni neu mewn cysylltiad â chyflawni swyddogaethau y gellir codi tâl amdanynt.

(2) Mae’r canlynol yn swyddogaethau y gellir codi tâl amdanynt—

- (a) penderfynu ar gais i gofrestru person yn arolygydd adeiladu a wneir o dan adran 58D o’r Ddeddf a chynnal y gofrestr o dan adran 58C o’r Ddeddf, gan gynnwys amrywio neu ganslo cofrestriad o dan adran 58E o’r Ddeddf;
- (b) penderfynu ar gais i gofrestru person yn gymeradwywr rheolaeth adeiladu a wneir o dan adran 58P o’r Ddeddf a chynnal y gofrestr o dan adran 58O o’r Ddeddf, gan gynnwys amrywio neu ganslo cofrestriad a dan adran 58Q o’r Ddeddf;
- (c) camau a gymerir o dan adran 58H(1) (ymchwiliadau camymddwyn proffesiynol) o’r Ddeddf;
- (d) camau a gymerir o dan adran 58T(1) (ymchwiliadau i achosion o dorri rheolau ymddygiad proffesiynol) o’r Ddeddf;
- (e) camau a gymerir o dan adran 58Z3(1) (ymchwiliadau i achosion o dorri rheolau safonau gweithredol) o’r Ddeddf;
- (f) unrhyw gam a gymerir sydd â’r bwriad o wneud y canlynol neu sydd mewn cysylltiad â gwneud y canlynol—
 - (i) sicrhau cydymffurfedd â Rhan 2A o’r Ddeddf neu ofyniad a osodir oddi tani, neu

Interpretation

2.—(1) In these Regulations—

“the Act” (“*y Ddeddf*”) means the Building Act 1984;

“chargeable functions” (“*swyddogaethau y gellir codi tâl amdanynt*”) means the functions set out in regulation 3(2);

“charging scheme” (“*cynllun codi tâl*”) means a scheme made under regulation 4(1).

(2) Subject to paragraph (1), words and expressions used in these Regulations and in the Building Act 1984 have the same meaning as in that Act.

Chargeable functions

3.—(1) The Welsh Ministers may recover charges for or in connection with the performance of chargeable functions.

(2) The following are chargeable functions—

- (a) the determination of an application for registration of a person as a building inspector made under section 58D of the Act and maintenance of the register under section 58C of the Act, including the variation or cancellation of a registration under section 58E of the Act;
- (b) the determination of an application for registration of a person as a building control approver made under section 58P of the Act and maintenance of the register under section 58O of the Act, including the variation or cancellation of a registration under section 58Q of the Act;
- (c) action taken under section 58H(1) (professional misconduct investigations) of the Act;
- (d) action taken under section 58T(1) (investigations into contraventions of professional conduct rules) of the Act;
- (e) action taken under section 58Z3(1) (investigations into contraventions of operational standards rules) of the Act;
- (f) any action taken with a view to or in connection with—
 - (i) securing compliance with Part 2A of the Act or a requirement imposed under it; or

- (ii) gosod sancsiwn mewn cysylltiad ag achos o dorri Rhan 2A o'r Ddeddf neu ofyniad a osodir oddi tani;
- (g) unrhyw gam a gymerir er mwyn ymateb i apel yn erbyn penderfyniad gan Weinidogion Cymru a wneir o dan Ran 2A o'r Ddeddf;
- (h) arolygu awdurdod lleol neu gymeradwywr cofrestredig rheolaeth adeiladu o dan adran 58Z8(1) o'r Ddeddf.

- (ii) the imposition of a sanction in respect of a contravention of Part 2A of the Act or a requirement imposed under it;
- (g) any action taken in order to respond to an appeal against a decision of the Welsh Ministers made under Part 2A of the Act;
- (h) the inspection of a local authority or a registered building control approver under section 58Z8(1) of the Act.

Cynllun codi tâl

4.—(1) Rhaid i swm unrhyw dâl sy'n daladwy o dan y Rheoliadau hyn gael ei bennu gan Weinidogion Cymru yn unol â chynllun a wneir ac a gyhoeddir gan Weinidogion Cymru.

(2) Rhaid i Weinidogion Cymru sicrhau, gan gymryd un flwyddyn gydag un arall, fod y taliadau sy'n daladwy o dan y cynllun codi tâl i'r graddau y bo'n bosibl yn cyfateb i'r costau y mae Gweinidogion Cymru yn mynd iddynt wrth gyflawni'r swyddogaethau y gellir codi tâl amdanynt.

(3) Caiff Gweinidogion Cymru ddiwygio'r cynllun codi tâl o bryd i'w gilydd.

(4) Rhaid i Weinidogion Cymru gyhoeddi'r cynllun codi tâl neu unrhyw ddiwygiadau i'r cynllun ar wefan Llywodraeth Cymru o leiaf 7 niwrnod cyn y dyddiad y mae'r cynllun neu'r diwygiad i gael effaith.

Taliadau ar gyfer awdurdodau lleol a'r proffesiwn rheolaeth adeiladu

5.—(1) Rhaid i'r person sy'n gwneud y cais dalu'r tâl am gyflawni'r swyddogaethau y gellir codi tâl amdanynt o dan reoliad 3(2)(a) a (b), fel y bo'n gymwys.

(2) Rhaid i awdurdod lleol neu gymeradwywr cofrestredig rheolaeth adeiladu, sy'n destun arolygiad o dan adran 58Z8 o'r Ddeddf, dalu'r taliadau sy'n deillio o gyflawni'r swyddogaethau y gellir codi tâl amdanynt o dan reoliad 3(2)(h).

Taliadau am fonitro ac ymyrraeth reoleiddiol i sicrhau cydymffurfedd

6.—(1) Yn ddarostyngedig i baragraffau (3) a (4), rhaid i berson dalu'r taliadau sy'n deillio o gyflawni'r swyddogaethau y gellir codi tâl amdanynt o dan reoliad 3(2)(c) i (f) os bydd gan Weinidogion Cymru sail resymol dros gredu y gall y person fod yn torri Rhan 2A o'r Ddeddf neu ofyniad a osodir yn rhinwedd Rhan 2A, neu fod y person yn gwneud hynny neu wedi gwneud hynny.

Charging scheme

4.—(1) The amount of any charge that is payable under these Regulations must be determined by the Welsh Ministers in accordance with a scheme made and published by the Welsh Ministers.

(2) The Welsh Ministers must ensure that, taking one year with another, the charges payable under the charging scheme as far as possible equate to the costs incurred by the Welsh Ministers in performing the chargeable functions.

(3) The Welsh Ministers may amend the charging scheme from time to time.

(4) The Welsh Ministers must publish the charging scheme or any amendments to the scheme on the Welsh Government website at least 7 days before the date on which the scheme or the amendment is to come into effect.

Charges for local authorities and the building control profession

5.—(1) The person who makes the application must pay the charges for the performance of the chargeable functions under regulation 3(2)(a) and (b), as applicable.

(2) A local authority or a registered building control approver, which is the subject of an inspection under section 58Z8 of the Act, must pay the charges arising from the performance of chargeable functions under regulation 3(2)(h).

Charges for monitoring and regulatory intervention to ensure compliance

6.—(1) Subject to paragraphs (3) and (4), a person must pay the charges arising from the performance of the chargeable functions under regulation 3(2)(c) to (f) if the Welsh Ministers have reasonable grounds to believe that the person may contravene, is contravening or has contravened Part 2A of the Act or a requirement imposed by virtue of Part 2A.

(2) Ni chaiff taliadau am gyflawni swyddogaethau y gellir codi tâl amdanynt o dan reoliad 3(2)(c) i (f) gynnwys unrhyw gostau sy'n gysylltiedig ag ymchwiliad troseddol neu erlyniad ac yr eir iddynt, yn y naill achos na'r llall, o'r dyddiad y caiff unrhyw wybodaeth ei gosod gan Weinidogion Cymru.

(3) Pan fo taliadau yn daladwy o dan baragraff (1) gan berson sy'n gweithredu yn rhinwedd y ffaith ei fod yn gyflogai, rhaid i gyflogwr y person hwnnw dalu'r taliadau.

(4) Nid oes tâl yn daladwy o dan baragraff (1) mewn perthynas ag ymchwiliad o dan adran 58H, 58T neu 58Z3 o'r Ddeddf gan—

- (a) arolygydd cofrestredig adeiladu os yw ymchwiliad Gweinidogion Cymru yn casglu nad yw wedi torri'r cod ymddygiad(1) nac wedi bod yn euog o gamymddwyn proffesiynol(2), na
- (b) cymeradwywr cofrestredig rheolaeth adeiladu os yw ymchwiliad Gweinidogion Cymru yn casglu nad yw wedi torri'r rheolau ymddygiad proffesiynol(3) na'r rheolau safonau gweithredol(4).

Taliadau am apelau

7. Rhaid i'r person sy'n gwneud yr apêl dalu'r taliadau am gyflawni'r swyddogaethau y gellir codi tâl amdanynt o dan reoliad 3(2)(g)—

- (a) os bydd yn tynnu'r apêl yn ôl, neu
- (b) os bydd y llys ynadon yn cadarnhau penderfyniad Gweinidogion Cymru.

Talu taliadau

8.—(1) Yn ddarostyngedig i baragraff (3), rhaid i berson dalu'r tâl am gyflawni neu mewn cysylltiad â chyflawni swyddogaeth y gellir codi tâl amdani y mae'n atebol amdani o fewn 30 o ddiwrnodau i'r dyddiad y mae Gweinidogion Cymru yn dyroddi iddynt y cais i dalu'r taliad hwnnw.

(2) Rhaid i unrhyw gais i dalu taliadau o dan baragraff (1) gynnwys—

- (a) datganiad o'r gwaith a wnaed a'r costau y mae Gweinidogion Cymru wedi mynd iddynt,

(2) Charges for the performance of chargeable functions under regulation 3(2)(c) to (f) must not include any costs connected with a criminal investigation or prosecution and which are incurred, in either case, from the date on which any information is laid by the Welsh Ministers.

(3) Where charges are payable under paragraph (1) by a person acting in their capacity as an employee, that person's employer must pay the charges.

(4) A charge is not payable under paragraph (1) in relation to an investigation under section 58H, 58T or 58Z3 of the Act by—

- (a) a registered building inspector if the Welsh Ministers' investigation concludes that they have not breached the code of conduct(1) or been guilty of professional misconduct(2);
- (b) a registered building control approver if the Welsh Ministers' investigation concludes that they have not contravened the professional conduct rules(3) or the operational standards rules(4).

Charges for appeals

7. The person who makes the appeal must pay the charges for the performance of the chargeable functions under regulation 3(2)(g) if—

- (a) they withdraw the appeal, or
- (b) the magistrates' court confirms the decision of the Welsh Ministers.

Payment of charges

8.—(1) Subject to paragraph (3), a person must pay the charge for or in connection with the performance of a chargeable function for which they are liable within 30 days from the date on which the request for payment of that charge is issued to them by the Welsh Ministers.

(2) Any request for a payment of charges under paragraph (1) must include—

- (a) a statement of the work done and the costs incurred by the Welsh Ministers in the performance of the chargeable function,

(1) A lunnir ac a gyhoeddir o dan adran 58F o Ddeddf Adeiladu 1984.

(2) Gweler y diffiniad o "professional misconduct" yn adran 58H o Ddeddf Adeiladu 1984.

(3) A lunnir ac a gyhoeddir o dan adran 58R o Ddeddf Adeiladu 1984.

(4) A wneir ac a gyhoeddir o dan adran 58Z o Ddeddf Adeiladu 1984.

(1) Prepared and published under section 58F of the Building Act 1984.

(2) See definition of "professional misconduct" in section 58H of the Building Act 1984.

(3) Prepared and published under section 58R of the Building Act 1984.

(4) Made and published under section 58Z of the Building Act 1984.

- (b) datganiad o unrhyw waith a wnaed a'r costau y mae unrhyw berson wedi mynd iddynt am gyflawni neu mewn cysylltiad â chyflawni swyddogaeth y gellir codi tâl amdani,
- (c) y cyfnod y mae'r datganiad gwaith o dan is-baragraff (a) yn berthnasol iddo, a
- (d) y ddarpariaeth yn y cynllun codi tâl y mae'r tâl wedi ei bennu oddi tani.

(3) Pan fo—

- (a) cais yn cael ei gyflwyno i Weinidogion Cymru, a bod y cynllun codi tâl yn darparu ar gyfer talu tâl mewn perthynas â'r cais hwnnw ymlaen llaw, rhaid i'r person sy'n cyflwyno'r cais dalu'r tâl hwnnw pan fyddant yn cyflwyno'r cais;
- (b) hysbysiad neu gais yn cael ei anfon at Weinidogion Cymru, a bod y cynllun codi tâl yn darparu ar gyfer talu tâl ymlaen llaw mewn perthynas ag ef, rhaid i'r person sy'n anfon yr hysbysiad neu'r cais dalu'r tâl hwnnw pan fyddant yn anfon yr hysbysiad neu'r cais.

(4) Caiff Gweinidogion Cymru ei gwneud yn ofynnol bod cyfanswm y taliadau am gyflawni swyddogaeth y gellir codi tâl amdani yn cael ei dalu cyn i Weinidogion Cymru gyflawni'r swyddogaeth y gellir codi tâl amdani neu ddyroddi hysbysiad o ganlyniad ei benderfyniad neu dystysgrif, fel y bo'n gymwys.

(5) Caiff Gweinidogion Cymru ad-dalu, yn gyfan gwbl neu'n rhannol, unrhyw dâl a delir.

- (b) a statement of any work done and the costs incurred by any person for or in connection with the performance of a chargeable function,
- (c) the period to which the statement of work under sub-paragraph (a) relates, and
- (d) the provision of the charging scheme under which the charge has been determined.

(3) Where—

- (a) an application is submitted to the Welsh Ministers, and the charging scheme provides for a charge in relation to that application to be paid upfront, the person submitting the application must pay that charge when they submit the application;
- (b) a notification or request is sent to the Welsh Ministers, and in relation to which the charging scheme provides for a charge to be paid upfront, the person sending the notification or request must pay that charge when they send the notification or request.

(4) The Welsh Ministers may require that the total amount of charges for the performance of a chargeable function is paid before the Welsh Ministers perform that chargeable function or issue a notification of the outcome of its determination or a certificate, as applicable.

(5) The Welsh Ministers may refund, in whole or in part, any charge paid.

Julie James

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

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Argraffwyd a chyhoeddwyd yn y DU gan Y Llyfrfa Cyf dan awdurdod a goruchwyliaeth Jeff James, Rheolwr Llyfrfa Ei Fawrhydi ac Argraffydd Deddfau Senedd y Brenin.

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

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