



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2005 Rhif 1911 (Cy.154) (C.83)

2005 No. 1911 (W.154) (C.83)

**ARCHWILIO CYHOEDDUS,
CYMRU A LLOEGR**

**PUBLIC AUDIT, ENGLAND
AND WALES**

**Gorchymyn Deddf Archwilio
Cyhoeddus (Cymru) 2004
(Cychwyn Rhif 3) 2005**

**The Public Audit (Wales) Act 2004
(Commencement No. 3) Order
2005**

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Order)

Mae'r Gorchymyn hwn yn dod â'r darpariaethau hynny yn Neddf Archwilio Cyhoeddus (Cymru) 2004 ("y Ddeddf") nad ydynt eisoes mewn grym i rym ar 20 Gorffennaf 2005 yng Nghymru a Lloegr.

This Order brings into force on 20 July 2005, in England and Wales, those provisions of the Public Audit (Wales) Act 2004 ("the Act") which are not already in force.

Y darpariaethau yw is-adrannau (1) i (5) o adran 54, ac adran 54A o'r Ddeddf. Mae adrannau 54 a 54A ill dwy yn rheoleiddio datgelu gwybodaeth.

Those provisions are subsections (1) to (5) of section 54, and section 54A of the Act. Both sections 54 and 54A regulate the disclosure of information.

Mae adran 54 o'r Ddeddf yn gymwys i bersonau nad ydynt yn awdurdodau cyhoeddus at ddibenion Deddf Rhyddid Gwybodaeth 2000 ("Deddf 2000"), ac nad ydynt yn gweithredu ar eu rhan. Mae'n cyfyngu ar yr amgylchiadau pryd y caiff y personau hynny ddatgelu gwybodaeth benodol a geir gan Archwilydd Cyffredinol Cymru, neu archwilydd a benodir ganddo o dan adran 13 o'r Ddeddf ("archwilydd").

Section 54 of the Act applies to persons who are not, and are not acting on behalf of, public authorities for the purposes of the Freedom of Information Act 2000 ("the 2000 Act"). It places restrictions on the circumstances in which certain information obtained by the Auditor General for Wales, or an auditor appointed by him or her under 13 of the Act ("an auditor"), can be disclosed by such persons.

Yr wybodaeth dan sylw yw gwybodaeth a geir gan Archwilydd Cyffredinol Cymru, neu archwilydd, wrth arfer ei swyddogaethau o dan:

The information concerned is information obtained by the Auditor General for Wales, or an auditor, in the course of exercising his or her functions under:

- Rhan 2 o'r Ddeddf;
- Rhan 1 o Ddeddf Llywodraeth Leol 1999 (swyddogaethau o ran y drefn gwerth gorau ar gyfer llywodraeth leol); neu
- adran 145C o Ddeddf Llywodraeth Cymru 1988 (a fewnosodwyd gan adran 5 o'r Ddeddf) sy'n ymdrin ag astudiaethau sy'n ymwneud â landlordiaid cymdeithasol cofrestredig yng Nghymru.

- Part 2 of the Act;
- Part 1 of the Local Government Act 1999 (functions in relation to the best value regime for local government); or
- section 145C of the Government of Wales Act 1998 (inserted by section 5 of the Act) which deals with studies relating to registered social landlords in Wales.

Mae'r cyfyngiadau yn adran 54 yn gweithredu drwy waharddiad cyffredinol ar ddatgelu, yn ddarostyngedig i eithriadau eang iawn, a roddir yn is-adran (2). Datgelu at ddibenion unrhyw swyddogaeth Archwilydd Cyffredinol Cymru, neu archwilydd, o dan Ran 2 o'r Ddeddf neu Ran 1 o Ddeddf Llywodraeth Leol 1999 yw un o'r eithriadau.

Os datgelir gwybodaeth heblaw o dan un o'r eithriadau yn is-adran (2), mae'n bosibl y bydd y person sy'n datgelu yn agored i gael ei garcharu am ddwy flynedd ac/neu ddirwy.

Mae adran 54A yn gymwys i bersonau sy'n awdurdodau cyhoeddus at ddibenion Deddf 2000 neu'n gweithredu ar eu rhan. Caiff y personau hyn ddatgelu gwybodaeth y byddai adran 54 yn gwahardd personau eraill rhag ei datgelu. Yr unig amgylchiad pryd y mae'n anghyfreithlon i awdurdod cyhoeddus o dan Ddeddf 2000, neu berson sy'n gweithredu ar ran awdurdod cyhoeddus o'r fath, ddatgelu'r wybodaeth honno yw pryd y byddai'r datgelu yn debygol o ragfarnu perfformiad effeithiol swyddogaeth statudol gan berson o'r fath.

Os datgelir gwybodaeth gan dorri adran 54A bydd y person sy'n datgleu yn agored i ddirwy ond nid i garchar.

Diwygiwyd adran 54, a mewnosodwyd adran 54A yn y Ddeddf gan Gorchymyn Deddf Archwilio Cyhoeddus (Cymru) 2004 (Llacio'r Cyfyngiad ar Ddatgelu) 2005 (O.S. 2005/1018). Daethpwyd ag is-adrannau (6) i (8) o adran 54 i rym ar 31 Ionawr 2005 i alluogi gwneud y Gorchymyn hwnnw.

NODYN AM ORCHMYNION CYCHWYN BLAENOROL

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

Mae darpariaethau canlynol y Ddeddf wedi'u dwyn i rym drwy orchymyn cychwyn a wnaed cyn dyddiad y Gorchymyn hwn:

<i>Y Ddarpariaeth</i>	<i>Y Dyddiad Cychwyn</i>	<i>Rhif O.S.</i>
Adrannau 1-6	1 Ebrill 2005	2005 Rhif 558 (Cy.48) (C.24)
Adran 7	1 Ebrill 2005	2005 Rhif 558 (Cy.48) (C.24)
Adrannau 8-11	1 Ebrill 2005	2005 Rhif 558 (Cy.48) (C.24)
Adran 12	31 Ionawr 2005	2005 Rhif 71 (Cy.9) (C.3)
Adrannau 13-15	1 Ebrill 2005	2005 Rhif 558 (Cy.48) (C.24)

The restrictions in section 54 operate by way of a general prohibition on disclosure, subject to very wide exceptions, which are set out in subsection (2). One of the exceptions is disclosure for the purposes of any of the functions of the Auditor General for Wales, or an auditor, under Part 2 of the Act or Part 1 of the Local Government Act 1999.

If information is disclosed other than under one of the exceptions in subsection (2), the person making the disclosure is potentially liable to imprisonment for two years and/or a fine.

Section 54A applies to persons who are, or are acting on behalf of, public authorities for the purposes of the 2000 Act. These persons are able to disclose information which section 54 would prohibit other persons from disclosing. The only circumstance in which it is unlawful for a public authority under the 2000 Act, or person acting on behalf of such a public authority, to disclose that information is where disclosure would be likely to prejudice the effective performance, by such a person, of a statutory function.

If information is disclosed in breach of section 54A, the person making the disclosure is liable to a fine, but not to imprisonment.

Section 54 was amended, and section 54A inserted into the Act, by the Public Audit (Wales) Act 2004 (Relaxation of Restriction on Disclosure) Order 2005 (S.I. 2005/1018). Subsections (6) to (8) of section 54 were brought into force on 31 January 2005 in order to enable that Order to be made.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1-6	1 April 2005	2005 No. 558 (W.48) (C.24)
Section 7	1 April 2005	2005 No. 558 (W.48) (C.24)
Sections 8-11	1 April 2005	2005 No. 558 (W.48) (C.24)
Section 12	31 January 2005	2005 No. 71 (W.9) (C.3)
Sections 13-15	1 April 2005	2005 No. 558 (W.48) (C.24)

Adran 16	31 Ionawr 2005	2005 Rhif 71 (Cy.9) (C.3)	Section 16	31 January 2005	2005 No. 71 (W.9) (C.3)
Adrannau 17-19	1 Ebrill 2005	2005 Rhif 558 (Cy.48) (C.24)	Sections 17-19	1 April 2005	2005 No. 558 (W.48) (C.24)
Is-adrannau (1) i (3) o adran 20	31 Ionawr 2005	2005 Rhif 71 (Cy.9) (C.3)	Subsections (1) to (3) of section 20	31 January 2005	2005 No. 71 (W.9) (C.3)
Is-adrannau (4) i (6) o adran 20	1 Ebrill 2005	2005 Rhif 558 (Cy.48) (C.24)	Subsections (4) to (6) of section 20	1 April 2005	2005 No. 558 (W.48) (C.24)
Is-adrannau (1), (2) a (5) o adran 21	1 Ionawr 2005	2005 Rhif 71 (Cy.9) (C.3)	Subsections (1), (2) and (5) of section 21	1 January 2005	2005 No. 71 (W.9) (C.3)
Is-adrannau (3) a (4) o adran 21	1 Ebrill 2005	2005 Rhif 558 (Cy.48) (C.24)	Subsections (3) and (4) of section 21	1 April 2005	2005 No. 558 (W.48) (C.24)
Adrannau 22-38	1 Ebrill 2005	2005 Rhif 558 (Cy.48) (C.24)	Sections 22-38	1 April 2005	2005 No. 558 (W.48) (C.24)
Adran 39	1 Ebrill 2005	2005 Rhif 558 (Cy.48) (C.24)	Section 39	1 April 2005	2005 No. 558 (W.48) (C.24)
Adrannau 40-49	1 Ebrill 2005	2005 Rhif 558 (Cy.48) (C.24)	Sections 40-49	1 April 2005	2005 No. 558 (W.48) (C.24)
Adran 50 ac Atodlen 1	1 Ebrill 2005	2005 Rhif 558 (Cy.48) (C.24)	Section 50 and Schedule 1	1 April 2005	2005 No. 558 (W.48) (C.24)
Adrannau 51-53	1 Ebrill 2005	2005 Rhif 558 (Cy.48) (C.24)	Sections 51-53	1 April 2005	2005 No. 558 (W.48) (C.24)
Is-adrannau (6) i (8) o adran 54	31 Ionawr 2005	2005 Rhif 71 (Cy.9) (C.3)	Subsections (6) to (8) of section 54	31 January 2005	2005 No. 71 (W.9) (C.3)
Adrannau 55-65	1 Ebrill 2005	2005 Rhif 558 (Cy.48) (C.24)	Sections 55-65	1 April 2005	2005 No. 558 (W.48) (C.24)
Adran 58	31 Ionawr 2005	2005 Rhif 71 (Cy.9) (C.3)	Section 58	31 January 2005	2005 No. 71 (W.9) (C.3)
Adran 59	31 Ionawr 2005	2005 Rhif 71 (Cy.9) (C.3)	Section 59	31 January 2005	2005 No. 71 (W.9) (C.3)
Adran 66 ac Atodlen 2 (gydag arbedion)	1 Ebrill 2005	2005 Rhif 558 (Cy.48) (C.24)	Section 66 and Schedule 2 (with savings)	1 April 2005	2005 No. 558 (W.48) (C.24)
Adran 67	1 Ebrill 2005	2005 Rhif 558 (Cy.48) (C.24)	Section 67	1 April 2005	2005 No. 558 (W.48) (C.24)
Adran 68 ac Atodlen 3	31 Ionawr 2005	2005 Rhif 71 (Cy.9) (C.3)	Section 68 and Schedule 3	31 January 2005	2005 No. 71 (W.9) (C.3)
Adrannau 69-70	1 Ebrill 2005	2005 Rhif 558 (Cy.48) (C.24)	Sections 69-70	1 April 2005	2005 No. 558 (W.48) (C.24)
Adran 72 ac Atodlen 4 (gydag arbedion)	1 Ebrill 2005	2005 Rhif 558 (Cy.48) (C.24)	Section 72 and Schedule 4 (with savings)	1 April 2005	2005 No. 558 (W.48) (C.24)

2005 Rhif 1911 (Cy.154) (C.83)

**ARCHWILIO CYHOEDDUS,
CYMRU A LLOEGR**

Gorchymyn Deddf Archwilio
Cyhoeddus (Cymru) 2004
(Cychwyn Rhif 3) 2005

Wedi'i wneud

12 Gorffennaf 2005

Mae Cynulliad Cenedlaethol Cymru, drwy arfer y pwerau a roddwyd iddo gan adran 73 o Ddeddf Archwilio Cyhoeddus (Cymru) 2004(1), drwy hyn yn gwneud y Gorchymyn a ganlyn:

Enwi a dehongli

1.-(1) Enw'r Gorchymyn hwn yw Gorchymyn Deddf Archwilio Cyhoeddus (Cymru) 2004 (Cychwyn Rhif 3) 2005.

(2) Yn y Gorchymyn hwn ystyr "y Ddeddf" ("*the Act*") yw Deddf Archwilio Cyhoeddus (Cymru) 2004.

(3) Mae cyfeiriadau at adrannau ac Atodlenni, oni nodir yn wahanol, yn gyfeiriadau at adrannau o'r Ddeddf ac Atodlenni iddi.

Darpariaethau sy'n dod i rym ar 20 Gorffennaf 2005

2. Daw darpariaethau'r Ddeddf a bennir yr Atodlen i'r Gorchymyn hwn i rym at bob diben ar 20 Gorffennaf 2005.

Llofnodwyd ar ran y Cynulliad Cenedlaethol o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(2).

12 Gorffennaf 2005

D. Elis-Thomas

Llywydd y Cynulliad Cenedlaethol

(1) 2004 p.23.

(2) 1998 p.38.

2005 No. 1911 (W.154) (C.83)

**PUBLIC AUDIT, ENGLAND
AND WALES**

The Public Audit (Wales) Act 2004
(Commencement No. 3) Order
2005

Made

12 July 2005

The National Assembly for Wales, in exercise of the powers conferred upon it by section 73 of the Public Audit (Wales) Act 2004(1), hereby makes the following Order:

Title and interpretation

1.-(1) The title of this Order is the Public Audit (Wales) Act 2004 (Commencement No. 3) Order 2005.

(2) In this Order, "the Act" ("*y Ddeddf*") means the Public Audit (Wales) Act 2004.

(3) References to sections and Schedules are, unless otherwise stated, references to sections of, and Schedules to, the Act.

Provisions coming into force on 20 July 2005

2. The provisions of the Act specified in the Schedule to this Order come into force for all purposes on 20 July 2005.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(2).

12 July 2005

The Presiding Officer of the National Assembly

(1) 2004 c.23.

(2) 1998 c.38.

YR ATODLEN

SCHEDULE

Erthygl 2

Article 2

Darpariaethau sy'n dod i rym ar 20 Gorffennaf 2005
Is-adrannau (1) i (5) o adran 54(1).
Adran 54A(2).

Provisions coming into force on 20 July 2005
Subsections (1) to (5) of section 54(1).
Section 54A(2).

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- (1) Diwygiwyd adran 54 gan Orchymyn Archwilio Cyhoeddus (Cymru) 2004 (Llacio'r Cyfyngiad ar Ddatgelu) 2005 (O.S. 2005/1018), sydd, o dan erthygl 1(2) ohono, yn dod i rym yn syth cyn i'r Gorchymyn hwn ddod i rym.
- (3) Mewnosodwyd adran 54A yn y Ddeddf gan Orchymyn Archwilio Cyhoeddus (Cymru) 2004 (Llacio'r Cyfyngiad ar Ddatgelu) 2005 (O.S. 2005/1018), sydd, o dan erthygl 1(2) ohono, yn dod i rym yn syth cyn i'r Gorchymyn hwn ddod i rym.

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- (1) Section 54 was amended by the Public Audit (Wales) Act 2004 (Relaxation of Restriction on Disclosure) Order 2005 (S.I. 2005/1018), which, under article 1(2) thereof, comes into force immediately before this Order comes into force.
- (2) Section 54A was inserted into the Act by the Public Audit (Wales) Act 2004 (Relaxation of Restriction on Disclosure) Order 2005 (S.I. 2005/1018), which, under article 1(2) thereof, comes into force immediately before this Order comes into force.

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2005 Rhif 1911 (Cy.154) (C.83)

**ARCHWILIO CYHOEDDUS,
CYMRU A LLOEGR**

Gorchymyn Deddf Archwilio
Cyhoeddus (Cymru) 2004
(Cychwyn Rhif 3) 2005

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