



OFFERYNNAU STATUDOL
CYMRU

WELSH
STATUTORY INSTRUMENTS

2008 Rhif 615 (Cy.67)

2008 No. 615 (W.67)

TRAFFIG FFYRDD, CYMRU

ROAD TRAFFIC, WALES

Rheoliadau Gorfodi Sifil ar
Dramgwyddau Parcio (Sylwadau
ac Apelau) Cerbydau a Symudwyd
Ymaith (Cymru) 2008

The Civil Enforcement of Parking
Contraventions (Representations
and Appeals) Removed Vehicles
(Wales) Regulations 2008

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Gwneir y Rheoliadau hyn o dan bwerau a roddir i'r Ysgrifennydd Gwladol dros Drafnidiaeth gan adran 101B o Ddeddf Rheoleiddio Traffig Ffyrdd 1984. Cafodd swyddogaethau'r Ysgrifennydd Gwladol dros Drafnidiaeth a'r Arglwydd Ganghellor o ran adrannau 99 i 103 o Ddeddf Rheoleiddio Traffig Ffyrdd 1984 eu trosglwyddo i Gynulliad Cenedlaethol Cymru o dan ddarpariaethau Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 2004 (O.S. 2004/3044). Yn ddiweddarach cafodd y pwerau hyn eu trosglwyddo i Weinidogion Cymru yn rhinwedd paragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006. Mae'r Rheoliadau yn darparu ar gyfer gwneud sylwadau ac apelau yn erbyn taliadau ar gyfer symud ymaith, storio a gwaredu cerbyd a symudir ymaith o dan y Ddeddf honno o ardal sydd yn ardal gorfodi sifil ar gyfer tramgwyddau parcio yn unol â Rhan 6 o Ddeddf Rheoli Traffig 2004.

These Regulations are made under powers conferred upon the Secretary of State for Transport by section 101B of the Road Traffic Regulation Act 1984. The functions of the Secretary of State for Transport and of the Lord Chancellor in relation to sections 99 to 103 of the Road Traffic Regulation Act 1984 were transferred to the National Assembly for Wales under the provisions of the National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044). These powers were subsequently transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006. The Regulations provide for the making of representations and appeals against charges for the removal, storage and disposal of a vehicle removed under that Act from an area which is a civil enforcement area for parking contraventions in accordance with Part 6 of the Traffic Management Act 2004.

Dylid darllen y Rheoliadau hyn ar y cyd â Rheoliadau Gorfodi Sifil ar Dramgwyddau Parcio (Darpariaethau Cyffredinol) (Cymru) 2008 (O.S. 2008/614 (Cy.66)), Rheoliadau Gorfodi Sifil ar Dramgwyddau Parcio (Sylwadau ac Apelau) (Cymru) 2008 (O.S. 2008/608) a Rheoliadau Gorfodi Sifil ar Dramgwyddau Parcio (Hysbysiadau Tâl Cosb, Gorfodi a Dyfarnu) (Cymru) 2008 (O.S. 2008/609).

These Regulations are to be read in conjunction with the Civil Enforcement of Parking Contraventions (General Provisions)(Wales) Regulations 2008 (S.I. 2008/614 (W.66)), the Civil Enforcement of Parking Contraventions (Representations and Appeals) (Wales) Regulations 2008 (S.I. 2008/608) and the Civil Enforcement of Parking Contraventions (Penalty Charge Notices, Enforcement and Adjudication)(Wales) Regulations 2008 (S.I. 2008/609).

Mae rheoliad 3 yn pennu'r personau y mae'r rheoliad yn gymwys iddynt, yn ei gwneud yn ofynnol i'r personau hynny gael eu hysbysu o'u hawl i wneud sylwadau ac i apelio at ddyfarnydd, mae'n rhoi i'r personau hynny hawl i wneud sylwadau ar ffurf a bennir gan yr awdurdod gorfodi ac yn pennu'r sail y ceir eu gwneud arni. Mae rheoliad 4 yn pennu dyletswyddau awdurdod gorfodi o ran sylwadau sy'n dod i law o dan reoliad 3 ac mae rheoliad 5 yn rhoi hawl i apelio at ddyfarnydd pan fo'r awdurdod gorfodi'n gwrthod sylwadau a gyflwynir iddo o dan reoliad 3. Mae rheoliad 6 yn cymhwyso'r Atodlen i Reoliadau Gorfodi Sifil ar Dramgwyddau Parcio (Sylwadau ac Apelau) (Cymru) 2008 (O.S. 2008/608) o ran gweithdrefnau a chyflwyno dogfennau mewn achosion dyfarnydd o dan y Rheoliadau hyn. Mae rheoliad 7 yn creu tramgwydd o wneud sylwadau anwir o dan reoliad 4 neu reoliad 5

Mae Aseiad Effaith Rheoleiddiol llawn a Memorandwm Esboniadol i'w gael gan yr Uned Trafnidiaeth Integredig, yr Is-adran Cynllunio Trafnidiaeth a Gweinyddu, Trafnidiaeth Cymru, Llywodraeth Cynulliad Cymru, Swyddfeydd y Goron, Parc Cathays, Caerdydd, CF10 3NQ neu ar wefan Llywodraeth Cynulliad Cymru yn

<http://www.assemblywales.org/bus-home/buslegislation/bus/bus-legislation-sub/bus-legislation-sub-annulment.htm>

Regulation 3 specifies the persons to whom the regulation applies, requires such persons to be informed of their right to make representations and to appeal to an adjudicator, confers on such persons a right to make representations in a form specified by the enforcement authority and specifies the basis on which they may be made. Regulation 4 specifies the duties of an enforcement authority in relation to representations received by it under regulation 3 and Regulation 5 confers a right to appeal to an adjudicator where the enforcement authority rejects representations made to it under regulation 3. Regulation 6 applies the Schedule to the Civil Enforcement of Parking Contraventions (Representations and Appeals)(Wales) Regulations 2008 (S.I. 2008/608) to procedure and the service of documents in adjudicator proceedings under these Regulations. Regulation 7 creates an offence of making false representations under regulation 4 or regulation 5.

A full Regulatory Impact Assessment and Explanatory Memorandum can be obtained from the Integrated Transport Unit, Transport, Planning and Administration Division, Transport Wales, Welsh Assembly Government, Crown Offices, Cathays Park, Cardiff, CF10 3NQ or on the Welsh Assembly Government website at <http://www.assemblywales.org/bus-home/buslegislation/bus/bus-legislation-sub/bus-legislation-sub-annulment.htm>

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ac Apelau) Cerbydau a Symudwyd
Ymaith (Cymru) 2008

The Civil Enforcement of Parking
Contraventions (Representations
and Appeals) Removed Vehicles
(Wales) Regulations 2008

Gwnaed 6 Mawrth 2008

Made 6 March 2008

*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 10 Mawrth 2008

*Laid before the National
Assembly for Wales* 10 March 2008

Yn dod i rym 31 Mawrth 2008

Coming into force 31 March 2008

TREFN Y RHEOLIADAU

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Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol dros Ddrafnidiaeth gan adran 101B o Ddeddf Rheoleiddio Traffig Ffyrdd 1984(1), a drosglwyddwyd yn ddiweddarach i Gynulliad Cenedlaethol Cymru ac a freiniwyd bellach ynddynt hwy(2), drwy hyn yn gwneud y Rheoliadau canlynol:

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State for Transport by section 101B of the Road Traffic Regulation Act 1984(1), subsequently transferred to the National Assembly for Wales and now vested in them(2) hereby make the following Regulations:

- (1) 1984 p. 27; diwygiwyd adran 99 gan Ddeddf Traffig Ffyrdd 1991 (p.40), Atodlen 4, paragraff 32, ac Atodlen 8 a chan Ddeddf Cymdogaethau Glân a'r Amgylchedd 2005 (p.16), adran 15 ac Atodlen 5, Rhan 1; mewnosodwyd adrannau 101A a 101B gan Ddeddf Rheoli Traffig 2004, Atodlen 11, paragraff 3(2). Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol dros Ddrafnidiaeth a swyddogaethau'r Arglwydd Ganghellor o ran adrannau 99 i 103 o Ddeddf Rheoleiddio Traffig Ffyrdd 1984 i Gynulliad Cenedlaethol Cymru o dan ddarpariaethau Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 2004 (O.S. 2004/3044).
- (2) Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weinidogion Cymru yn rhinwedd paragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).

- (1) 1984 c. 27; section 99 was amended by the Road Traffic Act 1991 (c. 40), Schedule 4, paragraph 32, and Schedule 8 and by the Clean Neighbourhoods and Environment Act 2005 (c. 16), section 15 and Schedule 5, Part 1; sections 101A and 101B were inserted by the Traffic Management Act 2004, Schedule 11, paragraph 3(2). The functions of the Secretary of State for Transport and of the Lord Chancellor in relation to sections 99 to 103 of the Road Traffic Regulation Act 1984 were transferred to the National Assembly for Wales under the provisions of The National Assembly for Wales (Transfer of Functions) Order 2004 (S.I. 2004/3044).
- (2) The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

Enwi, chychwyn a chymhwyso

1. Enw'r Rheoliadau hyn yw Rheoliadau Gorfodi Sifil ar Dramgwyddau Parcio (Sylwadau ac Apelau) Cerbydau a Symudwyd Ymaith (Cymru) 2008 deuant i rym ar 31 Mawrth 2008 ac maent yn gymwys i Gymru.

Dehongli

2. Yn y Rheoliadau hyn—

mae i "ardal gorfodi sifil am dramgwyddau parcio", "awdurdod gorfodi" a "tâl cosb" yr ystyr sydd i ("*civil enforcement area for parking contraventions*", "*enforcement authority*" a "*penalty charge*") yn Rhan 6 o Ddeddf 2004;

ystyr "Deddf 1984" ("*the 1984 Act*") yw Deddf Rheoleiddio Traffig Ffyrdd 1984;

ystyr "Deddf 2004" ("*the 2004 Act*") yw Deddf Rheoli Traffig 2004(1);

ystyr "dyfarnydd" ("*adjudicator*") yw dyfarnydd a benodwyd o dan Ran 3 o'r Rheoliadau Gorfodi a Dyfarnu;

ystyr "y Rheoliadau Darpariaethau Cyffredinol" ("*the General Provisions Regulations*") yw Rheoliadau Gorfodi Sifil ar Dramgwyddau Parcio (Darpariaethau Cyffredinol) (Cymru) 2008(2);

ystyr "y Rheoliadau Gorfodi a Dyfarnu" ("*the Enforcement and Adjudication Regulations*") yw Rheoliadau Gorfodi Sifil ar Dramgwyddau Parcio (Hysbysiadau Tâl Cosb, Gorfodi a Dyfarnu) (Cymru) 2008(3); ac

ystyr "y Rheoliadau Sylwadau ac Apelau" ("*the Representations and Appeals Regulations*") yw Rheoliadau Gorfodi Sifil ar Dramgwyddau Parcio (Sylwadau ac Apelau) (Cymru) 2008 (4).

Hawl i wneud sylwadau ynghylch cerbyd a symudwyd ymaith

3.—(1) Mae'r rheoliad hwn yn gymwys i berson, o ran cerbyd y daethpwyd o hyd iddo mewn ardal orfodi sifil ar gyfer tramgwyddau parcio ac a symudwyd ymaith o dan adran 99 o Ddeddf 1984—

(a) pan fo'n ofynnol iddo dalu swm i gael y cerbyd yn ôl o dan adran 101A o'r Ddeddf honno;

(b) pan fo'n derbyn swm ynglŷn â'r cerbyd o dan adran 101A(2) o'r Ddeddf honno;

Title, commencement and application

1. The title of these Regulations is the Civil Enforcement of Parking Contraventions (Representations and Appeals) Removed Vehicles (Wales) Regulations 2008, they come into force on 31 March 2008, and apply in relation to Wales.

Interpretation

2. In these Regulations—

"the 1984 Act" ("*Deddf 1984*") means the Road Traffic Regulation Act 1984;

"the 2004 Act" ("*Deddf 2004*") means the Traffic Management Act 2004(1);

"adjudicator" ("*dyfarnydd*") means an adjudicator appointed under Part 3 of the Enforcement and Adjudication Regulations;

"civil enforcement area for parking contraventions", "enforcement authority" and "penalty charge" ("*ardal gorfodi sifil am dramgwyddau parcio*", "*awdurdod gorfodi*" a "*tâl cosb*") have the same meanings as in Part 6 of the 2004 Act;

"the General Provisions Regulations" ("*y Rheoliadau Darpariaethau Cyffredinol*") means the Civil Enforcement of Parking Contraventions (General Provisions)(Wales) Regulations 2008(2);

"the Enforcement and Adjudication Regulations" ("*y Rheoliadau Gorfodi a Dyfarnu*") means the Civil Enforcement of Parking Contraventions (Penalty Charge Notices, Enforcement and Adjudication)(Wales) Regulations 2008(3); and

"the Representations and Appeals Regulations" ("*y Rheoliadau Sylwadau ac Apelau*") means the Civil Enforcement of Parking Contraventions (Representations and Appeals)(Wales) Regulations 2008(4)

Right to make representations about a removed vehicle

3.—(1) This regulation applies to a person where, as respects a vehicle which has been found in a civil enforcement area for parking contraventions and removed under section 99 of the 1984 Act—

(a) he or she is required to pay an amount on recovery of the vehicle under section 101A of that Act;

(b) he or she receives a sum in respect of the vehicle under section 101A(2) of that Act;

(1) 2004 p. 18.

(2) O.S. 2008/614 (Cy.66).

(3) O.S. 2008/609.

(4) O.S. 2008/608.

(1) 2004 c. 18.

(2) S.I. 2008/614 (W.66).

(3) S.I. 2008/609.

(4) S.I. 2008/608.

- (c) pan gaiff ei hysbysu nad oedd yr enillion ar werthiant y cerbyd yn fwy na chyfanswm y taliadau perthnasol a ddisgrifir yn adran 101A(2) a (3) o'r Ddeddf honno; neu
- (ch) pan gaiff ei hysbysu bod y cerbyd wedi cael ei waredu ac nad oedd unrhyw enillion ar ei werthiant.

(2) Rhaid i berson y mae paragraff (1) yn gymwys iddo gael ei hysbysu ar unwaith pan ddigwyddo achlysur y cyfeirir ato ym mharagraff (1)—

- (a) o'i hawl i wneud sylwadau i awdurdod gorfodi yn unol â'r rheoliad hwn; a
- (b) o'i hawl i apelio at ddyfarnydd os na chaiff ei sylwadau eu derbyn,

a rhaid i'r wybodaeth honno gynnwys datganiad o effeithiau paragraff (4) a (5).

(3) Rhaid i'r awdurdod gorfodi roi'r wybodaeth y cyfeirir ati ym mharagraff (2), neu beri ei bod yn cael ei rhoi, yn ysgrifenedig.

(4) Caiff person y mae paragraff (1) yn gymwys iddo wneud sylwadau i'r perwyl—

- (a) bod un neu fwy nag un o'r seiliau a bennir ym mharagraff (5) yn gymwys; neu
- (b) bod rhesymau cryf, p'un a yw'r seiliau hynny'n gymwys ai peidio, paham, o dan amgylchiadau penodol yr achos, y dylai'r awdurdod gorfodi—
 - (i) ad-dalu rhywfaint o'r swm neu'r cyfan ohono a dalwyd i sicrhau rhyddhau'r cerbyd;
 - (ii) ad-dalu rhywfaint o'r swm neu'r cyfan ohono a dynnwyd o enillion y gwerthiant gogyfer y taliadau perthnasol; neu
 - (iii) hepgor ei hawl i adennill pob un o'r symiau neu unrhyw un o'r symiau sy'n ddyledus iddo oherwydd iddo symud ymaith neu waredu'r cerbyd,

a chaniateir i unrhyw sylwadau o'r fath fod ar y ffurf y caiff yr awdurdod gorfodi ei phennu.

(5) Dyma'r seiliau y cyfeirir atynt ym mharagraff (4)(a)—

- (a) na chaniatawyd i'r cerbyd aros yn ei unfan mewn ardal orfodi sifil ar gyfer tramgwyddau parcio o dan amgylchiadau yr oedd tâl cosb yn daladwy yn rhinwedd rheoliad 3 o'r Rheoliadau Darpariaethau Cyffredinol;
- (b) nad oedd swyddog gorfodi sifil, yn unol â rheoliad 5 o'r Rheoliadau Gorfodi a Dyfarnu wedi gosod tâl cosb ar y cerbyd neu wedi traddodi hysbysiad o'r fath i'r person yr ymddangosai iddo mai ef oedd â rheolaeth ar y cerbyd cyn symud y cerbyd ymaith;

- (c) he or she is informed that the proceeds of sale of the vehicle did not exceed the aggregate amount of the relevant charges as described in section 101A(2) and (3) of that Act; or
- (d) he or she is informed that the vehicle was disposed of without there being any proceeds of sale.

(2) A person to whom paragraph (1) applies must immediately upon the happening of an occurrence referred to in paragraph (1) be informed—

- (a) of his or her right to make representations to the enforcement authority in accordance with this regulation; and
- (b) of his or her right to appeal to an adjudicator if his or her representations are not accepted,

and that information must include a statement of the effects of paragraphs (4) and (5).

(3) The information referred to in paragraph (2), must be provided by the enforcement authority, or cause it to be provided, in writing.

(4) A person to whom paragraph (1) applies may make representations to the effect—

- (a) that one or more of the grounds specified in paragraph (5) apply; or
- (b) that, whether or not any of those grounds apply, there are compelling reasons why, in the particular circumstances of the case, the enforcement authority should—
 - (i) refund some or all of the amount that was paid to secure the release of the vehicle;
 - (ii) refund some or all of the amount that was deducted from the proceeds of sale in respect of relevant charges; or
 - (iii) waive its right to recover all or any of the sums due to it on account of the removal or disposal of the vehicle,

and any such representations must be in such form as may be specified by the enforcement authority.

(5) The grounds referred to in paragraph (4)(a) are—

- (a) that the vehicle had not been permitted to remain at rest in a civil enforcement area for parking contraventions in circumstances in which a penalty charge was payable by virtue of regulation 3 of the General Provisions Regulations;
- (b) that a civil enforcement officer had not, in accordance with regulation 5 of the Enforcement and Adjudication Regulations, fixed a penalty charge notice to the vehicle or handed such a notice to the person appearing to him or her to be in charge of the vehicle, before the vehicle was removed;

- (c) ar yr adeg y symudwyd y cerbyd ymaith, nad oedd y pŵer a roddir gan baragraff (2) o reoliad 5C o'r Rheoliadau Symud Ymaith a Gwaredu Cerbydau 1986(1) yn rhinwedd paragraff (3) o'r rheoliad hwnnw, i symud y cerbyd ymaith yn arferadwy;
- (ch) y caniatawyd i'r cerbyd aros yn ei unfan yn y man lle'r oedd gan berson a oedd yn rheoli'r cerbyd heb gysyniad y perchennog;
- (d) nad oedd y man lle'r oedd y cerbyd yn aros yn ei unfan yn ardal orfodi sifil ar gyfer tramgwyddau parcio;
- (dd) bod y tâl cosb neu dâl arall a dalwyd i sicrhau rhyddhau'r cerbyd yn fwy na'r swm sy'n gymwys o dan amgylchiadau'r achos; neu
- (e) bod digwyddiad amhriodol wedi digwydd yn y gweithdrefnau ar ran yr awdurdod gorfodi.

(6) Wrth benderfynu'r ffurf ar gyfer gwneud sylwadau o dan baragraff (4) rhaid i'r awdurdod gorfodi weithredu drwy'r cyd-bwyllgor y mae, yn unol â rheoliad 8 o'r Rheoliadau Gorfodi a Dyfarnu, yn arfer ei swyddogaeth o benodi dyfarnwyr drwyddo.

Dyletswydd awdurdod gorfodi y gwneir sylwadau iddo

4.—(1) Caiff yr awdurdod gorfodi ddiystyru unrhyw sylwadau o dan reoliad 3 sy'n dod i law ar ôl diwedd y cyfnod o 28 o ddiwrnodau sy'n dechrau ar y dyddiad pan hysbysir y person sy'n gwneud y sylwadau o dan reoliad 3(2) o'i hawl i wneud sylwadau.

(2) Yn ddarostyngedig i baragraff (1), os gwneir sylwadau iddo yn unol â rheoliad 3(4), bydd yn ddyletswydd ar yr awdurdod gorfodi, cyn diwedd y cyfnod o 56 o ddiwrnodau sy'n dechrau ar y dyddiad y daw'r sylwadau i law—

- (a) i'w hystyried ac unrhyw dystiolaeth gefnogol y mae'r person sy'n eu gwneud yn ei darparu; a
- (b) i gyflwyno i'r person hwnnw hysbysiad o'i benderfyniad p'un a yw'n derbyn—
 - (i) bod sail a bennir yn rheoliad 3(5) yn gymwys; neu
 - (ii) bod rhesymau cryf o'r math y cyfeirir atynt yn rheoliad 3(4)(b).

(3) Os bydd awdurdod yn cyflwyno hysbysiad o dan baragraff (2)(b)(i) ei fod yn derbyn bod sail a bennir yn rheoliad 3(5) yn gymwys, rhaid iddo (pan fydd yn cyflwyno'r hysbysiad)—

- (a) ad-dalu unrhyw symiau—

- (c) that, at the time the vehicle was removed, the power to remove the vehicle conferred by paragraph (2) of regulation 5C of the Removal and Disposal of Vehicles Regulations 1986(1) was, by virtue of paragraph (3) of that regulation, not exercisable;
- (d) that the vehicle had been permitted to remain at rest in the place where it was by a person who was in control of the vehicle without the consent of the owner;
- (e) that the place where the vehicle was at rest was not in a civil enforcement area for parking contraventions;
- (f) that the penalty charge or other charge paid to secure the release of the vehicle exceeded the amount applicable in the circumstances of the case; or
- (g) that there has been procedural impropriety on the part of the enforcement authority.

(6) In determining the form for making representations under paragraph (4) the enforcement authority must act through the joint committee through which, in accordance with regulation 8 of the Enforcement and Adjudication Regulations, it exercises its function of appointing adjudicators.

Duty of enforcement authority to which representations are made

4.—(1) The enforcement authority may disregard any representations under regulation 3 which are received by it after the end of the period of 28 days beginning with the date on which the person making them is informed under regulation 3(2) of his or her right to make representations.

(2) Subject to paragraph (1), if representations are made to it in accordance with regulation 3(4), it will be the duty of the enforcement authority, before the end of the period of 56 days beginning with the date on which it receives the representations—

- (a) to consider them and any supporting evidence which the person making them provides; and
- (b) to serve on that person notice of its decision as to whether it accepts that—
 - (i) a ground specified in regulation 3(5) applies; or
 - (ii) there are compelling reasons of the kind referred to in regulation 3(4)(b).

(3) Where an authority serves notice under paragraph (2)(b)(i) that it accepts that a ground specified in regulation 3(5) applies it must (when serving that notice) —

- (a) refund any sums that —

(1) O.S. 1986/183; yr offeryn diwygio perthnasol yw O.S. 2008/612 (Cy.64).

(1) S.I. 1986/183; relevant amending instrument is S.I. 2008/612 (W.64).

- (i) yr oedd yn ofynnol i'r person y rhyddhawyd y cerbyd iddo dalu o dan adran 101A(1) o Ddeddf 1984; neu
- (ii) a ddidynnwyd oddi wrth enillion o werthiant y cerbyd yn unol ag adran 101A(2) o'r Ddeddf honno,

ac eithrio i'r graddau (os oes rhai) y talwyd neu y didynnwyd y symiau hynny'n briodol; a

- (b) hysbysu'r person sy'n gwneud sylwadau ei fod wedi hepgor ei hawl i adennill unrhyw swm a allai fel arall fod yn ddyledus iddo drwy dâl cosb neu oherwydd symud y cerbyd ymaith, ei storio neu ei waredu.

(4) Os bydd awdurdod yn cyflwyno hysbysiad o dan baragraff (2)(b)(ii) ei fod yn derbyn bod rhesymau cryf o'r fath, rhaid iddo (pan fydd yn cyflwyno'r hysbysiad)—

- (a) ad-dalu'r symiau y cyfeirir atynt ym mharagraff (3)(a) neu'r rhai hynny y mae'n ystyried sy'n briodol yn amgylchiadau'r achos; a
- (b) hysbysu'r person sy'n gwneud y sylwadau ei fod wedi hepgor yr hawl i adennill unrhyw swm a allai fel arall fod yn ddyledus drwy dâl cosb neu oherwydd symud ymaith, storio neu waredu'r cerbyd.

(5) Mae awdurdod sydd wedi hepgor ei hawl i adennill swm yn colli ei hawl i wneud hynny.

(6) Os bydd awdurdod yn cyflwyno hysbysiad o dan baragraff (2)(b) nad yw'n derbyn bod paragraff (2)(b)(i) neu (ii) wedi cael ei gyflawni, rhaid i'r hysbysiad hwnnw—

- (a) hysbysu'r person y cyflwynir ef iddo o'i hawl i apelio at ddyfarnydd o dan reoliad 5;
- (b) dangos natur pŵer y dyfarnydd i ddyfarnu costau; a
- (c) disgrifio mewn termau cyffredinol y ffurf a'r dull y mae'n ofynnol i'r gyfryw apêl gael ei gwneud ynddynt.

(7) Os bydd awdurdod yn methu â chydymffurfio â pharagraff (2) cyn diwedd y cyfnod o 56 o ddiwrnodau a grybwyllir ynddo, ymdrinnir ag ef fel pe bai wedi derbyn y sylwadau ac wedi cyflwyno hysbysiad i'r perwyl hwnnw o dan baragraff (2)(b) a bydd paragraff (3) yn gymwys yn unol â hynny.

Apelau at ddyfarnydd ynghylch penderfyniadau o dan reoliad 4

5.—(1) Os bydd awdurdod yn cyflwyno hysbysiad o dan reoliad 4(2)(b) ynglyn â sylwadau o dan reoliad 3(4), caiff y person sy'n gwneud y sylwadau hynny—

- (a) cyn diwedd y cyfnod o 28 o ddiwrnodau sy'n dechrau ar y dyddiad y cyflwynwyd yr hysbysiad hwnnw; neu

- (i) the person to whom the vehicle was released was required to pay under section 101A(1) of the 1984 Act; or
- (ii) were deducted from the proceeds of sale of the vehicle in accordance with section 101A(2) of that Act,

except to the extent (if any) to which those sums were properly paid or deducted; and

- (b) inform the person making representations that it has waived the right to recover any sum which might otherwise have been due to it by way of a penalty charge or on account of the removal, storage or disposal of the vehicle.

(4) Where an authority serves notice under paragraph (2)(b)(ii) that it accepts that there are such compelling reasons, it must (when serving that notice)—

- (a) refund the sums referred to in paragraph (3)(a) or such of them as it considers appropriate in the circumstances of the case; and
- (b) inform the person making representations that it has waived the right to recover any sum which might otherwise have been due to it by way of a penalty charge or on account of the removal, storage or disposal of the vehicle.

(5) An authority which has waived its right to recover a sum loses its right to do so.

(6) Where an authority serves notice under paragraph (2)(b) that it does not accept that paragraph (2)(b)(i) or (ii) is fulfilled, that notice must—

- (a) inform the person on whom it is served of his or her right to appeal to an adjudicator under regulation 5;
- (b) indicate the nature of an adjudicator's power to award costs; and
- (c) describe in general terms the form and manner in which such an appeal is required to be made.

(7) Where an authority fails to comply with paragraph (2) before the end of the period of 56 days mentioned there it will be treated as having accepted the representations and to have served notice to that effect under paragraph (2)(b) and paragraph (3) will apply accordingly.

Appeals to an adjudicator in relation to decisions under regulation 4

5.—(1) Where an authority serves notice under regulation 4(2)(b) in relation to representations under regulation 3(4), the person making those representations may, before—

- (a) the end of the period of 28 days beginning with the date of service of that notice; or

(b) cyn diwedd cyfnod hirach y caiff dyfarnydd ei ganiatáu,

apelio at ddyfarnydd yn erbyn penderfyniad yr awdurdod.

(2) Ar apêl o dan y rheoliad hwn, rhaid i'r dyfarnydd ystyried y sylwadau o dan sylw ac unrhyw sylwadau ychwanegol a wneir gan yr apelydd.

(3) Os bydd y dyfarnydd yn dod i'r casgliad—

(a) bod unrhyw rai o'r seiliau y cyfeirir atynt yn is-baragraffau (a) i (e) o reoliad 3(5) yn gymwys; a

(b) y byddai'r awdurdod gorfodi wedi bod o dan y ddyletswydd a osodir gan reoliad 4(3) i ad-dalu unrhyw swm os oedd wedi cyflwyno hysbysiad ei fod yn derbyn bod y sail o dan sylw yn gymwys,

rhaid iddo gyfarwyddo'r awdurdod hwnnw i ad-dalu'r swm hwnnw.

(4) Bydd yn ddyletswydd ar awdurdod gorfodi y rhoddir cyfarwyddyd iddo o dan baragraff (3) i gydymffurfio ag ef ar unwaith a bydd unrhyw hawl gan yr awdurdod gorfodi i adennill unrhyw swm a allai fel arall fod yn ddyledus iddo drwy dâl cosb neu oherwydd symud ymaith, storio neu waredu'r cerbyd yn peidio â bod.

(5) Os na fydd y dyfarnydd yn rhoi unrhyw gyfarwyddyd o dan baragraff (3) ond ei fod wedi'i fodloni bod rhesymau cryf, dan amgylchiadau penodol yr achos, pam y dylid ad-dalu rhywfaint o'r symiau neu'r cyfan o'r symiau i sicrhau rhyddhau'r cerbyd, neu a ddiwynwyd o enillion y gwerthiant, caiff argymhell bod yr awdurdod gorfodi yn gwneud y cyfryw ad-daliad.

(6) Bydd yn ddyletswydd ar awdurdod gorfodi y rhoddir cyfarwyddyd iddo o dan baragraff (5) i ystyried o'r newydd wneud ad-daliad o'r symiau hynny gan roi ystyriaeth lawn i unrhyw sylwadaeth gan y dyfarnydd ac, o fewn y cyfnod ("y cyfnod o 35 o ddiwrnodau") o dri deg pump o ddiwrnodau sy'n dechrau ar y dyddiad y rhoddwyd y cyfarwyddyd, hysbysu'r apelydd a'r dyfarnydd p'un a yw'n derbyn argymhelliad y dyfarnydd ai peidio.

(7) Os bydd yr awdurdod gorfodi yn hysbysu'r apelydd a'r dyfarnydd nad yw'n derbyn argymhelliad y dyfarnydd, rhaid iddo ar yr un pryd eu hysbysu o'r rhesymau dros ei benderfyniad.

(8) Ni cheir apelio at y dyfarnydd yn erbyn penderfyniad gan yr awdurdod gorfodi o dan baragraff (7).

(9) Os bydd yr awdurdod gorfodi'n derbyn argymhelliad y dyfarnydd rhaid iddo wneud yr ad-daliad a argymhellwyd o fewn y cyfnod o 35 o ddiwrnodau.

(b) such longer period as an adjudicator may allow,

appeal to an adjudicator against the authority's decision.

(2) On an appeal under this regulation, the adjudicator must consider the representations in question and any additional representations that are made by the appellant.

(3) If the adjudicator concludes—

(a) that any of the grounds referred to in subparagraphs (a) to (g) of regulation 3(5) apply; and

(b) that the enforcement authority would have been under the duty imposed by regulation 4(3) to refund any sum if it had served notice that it accepted that the ground in question applied,

he or she must direct that authority to refund that sum.

(4) It will be the duty of an enforcement authority to which a direction is given under paragraph (3) to comply with it forthwith and the enforcement authority will cease to have any right to recover any sum which might otherwise have been due to it by way of a penalty charge or on account of the removal, storage or disposal of the vehicle.

(5) If the adjudicator makes no direction under paragraph (3) but is satisfied that there are compelling reasons why, in the particular circumstances of the case, some or all of the sums paid to secure the release of the vehicle, or deducted from the proceeds of sale, should be refunded, he or she may recommend that the enforcement authority should make such a refund.

(6) It is the duty of an enforcement authority to which a recommendation is made under paragraph (5) to consider afresh the making of a refund of those sums taking full account of any observations by the adjudicator and, within the period ("the 35-day period") of thirty-five days beginning with the date on which the direction was given, to notify the appellant and the adjudicator as to whether or not it accepts the adjudicator's recommendation.

(7) If the enforcement authority notifies the appellant and the adjudicator that it does not accept the adjudicator's recommendation, it must at the same time inform them of the reasons for its decision.

(8) No appeal to the adjudicator will lie against the decision of the enforcement authority under paragraph (7).

(9) If the enforcement authority accepts the adjudicator's recommendation it must make the recommended refund within the 35-day period.

(10) Os bydd yr awdurdod gorfodi yn methu â chydymffurfio â gofynion paragraff (6) o fewn y cyfnod o 35 o ddiwrnodau, bernir bod yr awdurdod wedi derbyn argymhelliad y dyfarnydd a rhaid iddo wneud yr ad-daliad a argymhellwyd yn ddiymdroi ar ôl diwedd y cyfnod hwnnw.

Y weithdrefn sydd i'w dilyn gan ddyfarnwyr, cyflwyno dogfennau ac adennill symiau sy'n daladwy

6.—(1) Bydd yr Atodlen i'r Rheoliadau Sylwadau ac Apelau ("yr Atodlen") yn cael effaith o ran gweithdrefn a chyflwyno dogfennau mewn achosion gerbron dyfarnydd o dan y Rheoliadau hyn fel pe bai wedi cael ei hymgorffori yn y Rheoliadau hyn yn ddarostyngedig i'r addasiadau a bennir ym mharagraff (3).

(2) Yn unol â hynny, bernir y bydd cyfeiriadau yn yr Atodlen honno fel y mae'n cael effaith yn rhinwedd paragraff (1) at "y Rheoliadau hyn" yn gyfeiriadau at y Rheoliadau hyn ac nid at y Rheoliadau Sylwadau ac Apelau.

(3) Dyma'r addasiadau y cyfeirir atynt ym mharagraff (1)—

- (a) ym mharagraff 1(1), yn y diffiniad o "apêl" yn lle "rheoliad 7(1) neu 10(1)" rhodder "rheoliad 5";
- (b) ym mharagraff 2(3), yn lle "rheoliad 7(1) neu 10(1)(a) (yn ôl y digwydd)" rhodder "rheoliad 5";
- (c) ym mharagraff 4(1) yn lle "rheoliad 4(2)(b) neu 8(4), p'un bynnag sy'n briodol dan yr amgylchiadau" rhodder "rheoliad 3(5)".

(4) Yn ddarostyngedig i ddarpariaethau'r Atodlen honno fel y'i haddaswyd, caiff dyfarnydd reoleiddio ei weithdrefn ei hun.

(5) O ran unrhyw swm sy'n daladwy—

- (a) o dan ddyfarniad dyfarnydd;
- (b) yn rhinwedd unrhyw ddarpariaeth arall yn y Rheoliadau Sylwadau ac Apelau sy'n ei gwneud yn ofynnol i awdurdod gorfodi ad-dalu unrhyw swm,

os bydd llys sirol yn gorchymyn hynny, rhaid bod y person y mae'r swm yn daladwy iddo yn gallu ei adennill fel pe bai'n daladwy o dan orchymyn llys sirol.

(6) Nid yw paragraff (3) yn gymwys i dâl cosb sy'n parhau'n daladwy yn dilyn dyfarniad o dan reoliad 7 o'r Rheoliadau Sylwadau ac Apelau.

(10) If the enforcement authority fails to comply with the requirements of paragraph (6) within the 35-day period, the authority will be taken to have accepted the adjudicator's recommendation and must make the recommended refund immediately after the end of that period.

Procedure to be followed by adjudicators, service of documents and recovery of sums payable

6.—(1) The Schedule to the Representations and Appeals Regulations ("the Schedule") has effect as to the procedure and the service of documents in adjudication proceedings under these Regulations as if it were incorporated in these Regulations subject to the modifications specified in paragraph (3).

(2) Accordingly references in that Schedule as it has effect by virtue of paragraph (1) to these Regulations must be taken as references to these Regulations and not to the Representations and Appeals Regulations.

(3) The modifications referred to in paragraph (1) are—

- (a) in paragraph 1(1), in the definition of "appeal" for "regulation 7(1) or 10(1)" there is substituted "regulation 5";
- (b) in paragraph 2(3), for "regulation 7(1)(a) or 10(1)(a) (as the case may be)" there is substituted "regulation 5";
- (c) in paragraph 4(1) for "regulation 4(2)(b) or 8(4), whichever is appropriate in the circumstances" there is substituted "regulation 3(5)".

(4) Subject to the provisions of that Schedule as so modified, an adjudicator may regulate his or her own procedure.

(5) Any amount which is payable—

- (a) by way of an adjudicator's decision;
- (b) by virtue of any provision of the Representations and Appeals Regulations which requires an enforcement authority to refund any sum,

must, if a county court so orders, be recoverable by the person to whom the amount is payable as if it were payable under a county court order.

(6) Paragraph (3) does not apply to a penalty charge which remains payable following an adjudication under regulation 7 of the Representations and Appeals Regulations.

Sylwadau anwir

7.—(1) Bydd person sy'n gwneud unrhyw sylw o dan reoliad 3 neu 4 neu o dan yr Atodlen i'r graddau y mae'n ymwneud ag apêl, sy'n anwir mewn manylyn o bwys ac sy'n gwneud hynny'n ddi-hid neu gan wybod ei fod yn anwir yn y manylyn hwnnw, yn euog o dramgwydd.

(2) Bydd person a gollfernir o dramgwydd o dan baragraff (1) yn agored ar gollfarn ddiannod i ddirwy nad yw'n fwy na lefel 5 ar y raddfa safonol.

False Representations

7.—(1) A person who makes any representation under regulation 3 or 4, or under the Schedule so far as it relates to an appeal, which is false in a material particular and does so recklessly or knowing it to be false in that particular, is guilty of an offence.

(2) A person convicted of an offence under paragraph (1) will be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Ieuan Wyn Jones

Y Gweinidog dros yr Economi a Thrafnidiaeth, un o Weinidogion Cymru.

Minister for the Economy and Transport, one of the Welsh Ministers

6 Mawrth 2008

6 March 2008

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The Civil Enforcement of Parking
Contraventions (Representations
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