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WELSH STATUTORY  
INSTRUMENTS

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**2021 Rhif 1166 (Cy. 288)**

**2021 No. 1166 (W. 288)**

**LLYWODRAETH LEOL,  
CYMRU**

**LOCAL GOVERNMENT,  
WALES**

**Rheoliadau'r Pŵer Cymhwysedd  
Cyffredinol (Diben Masnachol)  
(Amodau) (Cymru) 2021**

**The General Power of Competence  
(Commercial Purpose) (Conditions)  
(Wales) Regulations 2021**

**NODYN ESBONIADOL**

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

Mae adran 24 o Ddeddf Llywodraeth Leol ac Etholiadau (Cymru) 2021 ("y Ddeddf") yn rhoi pŵer cymhwysedd cyffredinol i brif gynghorau a chynghorau cymuned cymwys. Yn benodol, mae'r pŵer cymhwysedd cyffredinol yn rhoi i'r awdurdodau hynny bŵer i wneud pethau penodol at ddiben masnachol.

Mae'r pŵer i wneud pethau at ddiben masnachol yn ddarostyngedig i amodau a nodir yn adran 27 o'r Ddeddf. O dan adran 27(2), wrth arfer y pŵer cyffredinol at ddiben masnachol rhaid gwneud hynny drwy gyfrwng cwmni.

Mae adran 28(4) o'r Ddeddf yn darparu pŵer i Weinidogion Cymru i ddarparu, drwy reoliadau, y bydd arfer y pŵer cyffredinol yn ddarostyngedig i amodau ychwanegol.

Mae rheoliad 2 yn rhagnodi amodau ychwanegol y mae rhaid i brif gyngor eu bodloni cyn arfer y pŵer cymhwysedd cyffredinol i wneud pethau at ddiben masnachol.

Mae rheoliad 3 yn ei gwneud yn ofynnol i brif gyngor gyhoeddi unrhyw achos busnes a gymeradwyir yn unol â rheoliad 2(1)(b) cyn gynted ag y bo'n rhesymol ymarferol.

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Section 24 of the Local Government and Elections (Wales) Act 2021 ("the Act") confers a general power of competence on principal councils and eligible community councils. In particular, the general power of competence confers on those authorities a power to do certain things for a commercial purpose.

The power to do things for a commercial purpose is subject to conditions set out in section 27 of the Act. Under section 27(2), the exercise of the general power for a commercial purpose must be done through a company.

Section 28(4) of the Act provides a power for the Welsh Ministers to provide, by regulations, for the exercise of the general power to be subject to additional conditions.

Regulation 2 prescribes additional conditions that a principal council must meet before exercising the general power of competence to do things for a commercial purpose.

Regulation 3 requires a principal council to publish any business case approved in accordance with regulation 2(1)(b) as soon as reasonably practicable.

Mae rheoliad 4 yn ei gwneud yn ofynnol i brif gyngor adennill unrhyw gostau y mae'n mynd iddynt o ran unrhyw beth y mae'n ei gyflenwi i gwmni y mae'n arfer y pŵer cyffredinol at ddiben masnachol drwyddo, oddi wrth y cwmni hwnnw.

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: Yr Is-adran Democratiaeth Llywodraeth Leol, Llywodraeth Cymru, Parc Cathays, Caerdydd CF10 3NQ.

Regulation 4 requires a principal council to recover any costs incurred by it in anything it supplies to a company through which the general power is exercised for a commercial purpose, from that company.

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 the Local Government Democracy Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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**Rheoliadau'r Pŵer Cymhwysedd  
Cyffredinol (Diben Masnachol)  
(Amodau) (Cymru) 2021**

**The General Power of Competence  
(Commercial Purpose) (Conditions)  
(Wales) Regulations 2021**

*Gwnaed* 20 Hydref 2021

*Made* 20 October 2021

*Yn dod i rym* 1 Tachwedd 2021

*Coming into force* 1 November 2021

Mae Gweinidogion Cymru yn gwneud y Rheoliadau a ganlyn drwy arfer y pwerau a roddir iddynt gan adran 28(4), 28(5)(b) ac 28(6)(c) o Ddeddf Llywodraeth Leol ac Etholiadau (Cymru) 2021(1).

The Welsh Ministers make the following Regulations in exercise of the powers conferred upon them by section 28(4), 28(5)(b) and 28(6)(c) of the Local Government and Elections (Wales) Act 2021(1).

Yn unol ag adran 174(5)(b) o'r Ddeddf honno, gosodwyd drafft o'r offeryn hwn gerbron Senedd Cymru ac fe'i cymeradwywyd ganddi drwy benderfyniad.

In accordance with section 174(5)(b) of that Act, a draft of this instrument has been laid before, and approved by a resolution of, Senedd Cymru.

Yn unol ag adran 28(7) o'r Ddeddf honno, mae Gweinidogion Cymru wedi ymgynghori â'r personau hynny y mae'n ymddangos yn debygol i Weinidogion Cymru y bydd y Rheoliadau hyn yn effeithio arnynt.

In accordance with section 28(7) of that Act, the Welsh Ministers have consulted such persons as appear to the Welsh Ministers likely to be affected by these Regulations.

**Enwi, cychwyn a dehongli**

**Title, commencement and interpretation**

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau'r Pŵer Cymhwysedd Cyffredinol (Diben Masnachol) (Amodau) (Cymru) 2021 a deuant i rym ar 1 Tachwedd 2021.

1.—(1) The title of these Regulations is the General Power of Competence (Commercial Purpose) (Conditions) (Wales) Regulations 2021 and they come into force on 1 November 2021.

(2) Yn y Rheoliadau hyn—

(2) In these Regulations—

ystyr "awdurdod" ("authority") yw prif gyngor o fewn ystyr adran 171(1) o Ddeddf 2021;

"the 2021 Act" ("Deddf 2021") means the Local Government and Elections (Wales) Act 2021;

ystyr "cwmni" ("company") yw cwmni o fewn ystyr adran 27(4) o Ddeddf 2021;

"authority" ("awdurdod") means a principal council within the meaning of section 171(1) of the 2021 Act;

ystyr “Deddf 2021” (“*the 2021 Act*”) yw Deddf Llywodraeth Leol ac Etholiadau (Cymru) 2021;

ystyr “y pŵer cyffredinol” (“*the general power*”) yw’r pŵer cymhwysedd cyffredinol a roddir i awdurdod gan adran 24 o Ddeddf 2021.

“company” (“*cwmni*”) means a company within the meaning of section 27(4) of the 2021 Act;

“the general power” (“*y pŵer cyffredinol*”) means the general power of competence conferred on an authority by section 24 of the 2021 Act.

### **Yr amodau sydd i’w bodloni cyn arfer y pŵer cyffredinol i wneud pethau at ddiben masnachol**

2.—(1) Cyn arfer y pŵer cyffredinol i wneud pethau at ddiben masnachol, rhaid i awdurdod—

- (a) llunio achos busnes i gefnogi’r bwriad i arfer y pŵer cyffredinol; a
- (b) cymeradwyo’r achos busnes hwnnw.

(2) Ystyr “achos busnes” o dan reoliad 2(1) yw datganiad cynhwysfawr ynghylch—

- (a) nodau ac amcanion y bwriad i arfer y pŵer cyffredinol;
- (b) y costau, y buddsoddiadau a’r adnoddau eraill y mae eu hangen er mwyn cyflawni’r nodau a’r amcanion hynny;
- (c) y canlyniadau ariannol y disgwylir y bydd y bwriad i arfer y pŵer cyffredinol yn eu cyflawni;
- (d) unrhyw ganlyniadau perthnasol eraill y disgwylir y bydd y bwriad i arfer y pŵer cyffredinol yn eu cyflawni;
- (e) unrhyw risgiau sy’n gysylltiedig â’r bwriad i arfer y pŵer cyffredinol gan gynnwys asesiad o ddifrifoldeb y risgiau hynny, ac unrhyw gamau y mae’r awdurdod yn bwriadu eu cymryd i liniaru’r risgiau hynny;
- (f) yr effaith (gan gynnwys yr effaith ar delerau ac amodau cyflogaeth) ar unrhyw staff y mae’n bwriadu eu cyflenwi i gwmni y mae’n arfer y pŵer cyffredinol i wneud pethau at ddiben masnachol drwyddo; ac
- (g) y trefniadau bwriadedig ar gyfer staffio’r cwmni y mae’n arfer y pŵer cyffredinol i wneud pethau at ddiben masnachol drwyddo, gan gynnwys telerau ac amodau cyflogaeth arfaethedig unrhyw staff sydd i’w cyflogi.

### **Cyhoeddi achos busnes**

3. Rhaid i awdurdod gyhoeddi unrhyw achos busnes a gymeradwyir yn unol â rheoliad 2(1)(b) cyn gynted ag y bo’n rhesymol ymarferol.

### **Conditions to be met before exercising the general power to do things for a commercial purpose**

2.—(1) Before exercising the general power to do things for a commercial purpose, an authority must—

- (a) prepare a business case in support of the proposed exercise of the general power; and
- (b) approve that business case.

(2) A “business case” under regulation 2(1) means a comprehensive statement as to—

- (a) the aims and objectives of the proposed exercise of the general power;
- (b) the costs, investments and other resources required to achieve those aims and objectives;
- (c) the financial outcomes that are expected to be achieved by the proposed exercise of the general power;
- (d) any other relevant outcomes that are expected to be achieved by the proposed exercise of the general power;
- (e) any risks associated with the proposed exercise of the general power including an assessment of the severity of those risks, and any actions that the authority proposes to take to mitigate those risks;
- (f) the impact (including on the terms and conditions of employment) on any staff that it intends to supply to a company through which it is exercising the general power to do things for a commercial purpose; and
- (g) the intended arrangements for the staffing of the company through which it is exercising the general power to do things for a commercial purpose, including the proposed terms and conditions of employment of any staff to be employed.

### **Publication of business case**

3. An authority must publish any business case approved in accordance with regulation 2(1)(b) as soon as reasonably practicable.

#### **Gofyniad i adennill costau etc.**

4. Rhaid i awdurdod adennill costau unrhyw adeiladau ac ystafelloedd, nwyddau, gwasanaethau, staff neu unrhyw beth arall a gyflenwir ganddo i gwmni y mae'n arfer y pŵer cyffredinol i wneud pethau at ddiben masnachol drwyddo, oddi wrth y cwmni hwnnw.

#### **Requirement to recover costs etc**

4. An authority must recover the costs of any accommodation, goods, services, staff or any other thing that it supplies to a company through which it is exercising the general power to do things for a commercial purpose, from that company.

*Rebecca Evans*

Y Gweinidog Cyllid a Llywodraeth Leol, un o  
Weinidogion Cymru  
20 Hydref 2021

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Minister for Finance and Local Government, one of  
the Welsh Ministers  
20 October 2021

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£4.90

<http://www.legislation.gov.uk/id/wsi/2021/1166>

ISBN 978-0-348-39142-8



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