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WELSH STATUTORY INSTRUMENTS

# 2024 Rhif 238 (Cy. 48)

# 2024 No. 238 (W. 48)

# ADEILADU AC ADEILADAU, CYMRU

# BUILDING AND BUILDINGS, WALES

## Rheoliadau Adeiladu (Gweithgareddau a Swyddogaethau Cyfyngedig) (Cymru) 2024

## The Building (Restricted Activities and Functions) (Wales) Regulations 2024

### NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn rhagnodi gweithgareddau a swyddogaethau awdurdodau rheolaeth adeiladu a chymeradwywyr cofrestredig rheolaeth adeiladu sydd wedi eu cyfyngu o dan adrannau 46A a 54B o Ddeddf Adeiladu 1984 (p. 55) ("Deddf 1984").

Mae rheoliad 3 yn rhagnodi gweithgareddau a swyddogaethau cyfyngedig awdurdod rheolaeth adeiladu at ddibenion adran 46A o Ddeddf 1984.

Mae rheoliad 4 yn rhagnodi gweithgareddau a swyddogaethau cyfyngedig cymeradwywr cofrestredig rheolaeth adeiladu at ddibenion adran 54B o Ddeddf 1984.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau 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.

### EXPLANATORY NOTE

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

These Regulations prescribe the activities and functions of building control authorities and registered building control approvers which are restricted under sections 46A and 54B of the Building Act 1984 (c. 55) ("the 1984 Act").

Regulation 3 prescribes the restricted activities and functions of a building control authority for the purposes of section 46A the 1984 Act.

Regulation 4 prescribes the restricted activities and functions of a registered building control approver for the purposes of section 54B the 1984 Act.

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.

# 2024 Rhif 238 (Cy. 48)

# ADEILADU AC ADEILADAU, CYMRU

## Rheoliadau Adeiladu (Gweithgareddau a Swyddogaethau Cyfyngedig) (Cymru) 2024

| | | |
|---|---|---|
| *Gwnaed* | | *28 Chwefror 2024* |
| *Gosodwyd gerbron Senedd Cymru* | | *1 Mawrth 2024* |
| *Yn dod i rym* | | *6 Ebrill 2024* |

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir iddynt gan adrannau 1(1), 46A(4) a 54B(5) o Ddeddf Adeiladu 1984(**1**), yn gwneud y Rheoliadau a ganlyn.

Yn unol ag adran 14(7)(**2**) o Ddeddf Adeiladu 1984, mae Gweinidogion Cymru wedi ymgynghori â Phwyllgor Cynghori Cymru ar Reoliadau Adeiladu ac unrhyw berson arall y mae Gweinidogion Cymru yn ystyried ei fod yn briodol.

(**1**) 1984 p. 55. Diwygiwyd adran 1 gan adran 1 o Ddeddf Adeiladau Cynaliadwy a Diogel 2004 (p. 22) ac adran 55 o Ddeddf Diogelwch Adeiladau 2022 (p. 30) ("Deddf 2022"), a pharagraff 2 o Atodlen 5 iddi, sydd, ymhlith pethau eraill, yn rhoi "appropriate national authority" yn lle cyfeiriadau at yr Ysgrifennydd Gwladol yn adran 1(1) o Ddeddf Adeiladu 1984 ("Deddf 1984"). Ystyr "appropriate national authority" o ran Cymru yw Gweinidogion Cymru (gweler adran 126 o Ddeddf 1984, a ddiwygiwyd gan adran 55 o Ddeddf 2022, a pharagraff 81 o Atodlen 5 iddi). Mewnosodwyd adrannau 46A a 54B gan adran 44 o Ddeddf 2022. Gweler y diffiniad o "prescribed" yn adran 126 o Ddeddf 1984.

(**2**) Diwygiwyd adran 14(7) gan baragraff 17(3) o Atodlen 5 i Ddeddf 2022. Cymerodd y diwygiad hwn effaith o 5 Medi 2023 ac mae'n ddarostyngedig i ddarpariaethau trosiannol a bennir yn rheoliad 5 o Reoliadau Deddf Diogelwch Adeiladau 2022 (Cychwyn Rhif 3, Darpariaethau Trosiannol a Darpariaethau Arbed) (Cymru) 2023 (O.S. 2023/914 (Cy. 141)). Dechreuwyd yr ymgynghoriad y cyfeirir ato yn y rhaglith i'r Rheoliadau hyn cyn 5 Medi 2023.



# 2024 No. 238 (W. 48)

# BUILDING AND BUILDINGS, WALES

## The Building (Restricted Activities and Functions) (Wales) Regulations 2024

| | |
|---|---|
| *Made* | *28 February 2024* |
| *Laid before Senedd Cymru* | *1 March 2024* |
| *Coming into force* | *6 April 2024* |

The Welsh Ministers, in exercise of the powers conferred on them by sections 1(1), 46A(4) and 54B(5) of the Building Act 1984(**1**), make the following Regulations.

In accordance with section 14(7)(**2**) of the Building Act 1984 the Welsh Ministers have consulted the Building Regulations Advisory Committee for Wales and any other person that the Welsh Ministers consider appropriate.

(**1**) 1984 c. 55. Section 1 was amended by section 1 of the Sustainable and Secure Buildings Act 2004 (c. 22) and section 55 of, and paragraph 2 of Schedule 5 to, the Building Safety Act 2022 (c. 30) ("the 2022 Act"), which, amongst other things, substitutes references to the Secretary of State with "appropriate national authority" in section 1(1) of the Building Act 1984 ("the 1984 Act"). "Appropriate national authority" in relation to Wales means the Welsh Ministers (see section 126 of the 1984 Act, which was amended by section 55 of, and paragraph 81 of Schedule 5 to, the 2022 Act). Sections 46A and 54B were inserted by section 44 of the 2022 Act. See the definition of "prescribed" in section 126 of the 1984 Act.

(**2**) Section 14(7) was amended by paragraph 17(3) of Schedule 5 to the 2022 Act. This amendment took effect from 5 September 2023 and is subject to transitional provisions specified in regulation 5 of the Building Safety Act 2022 (Commencement No. 3, Transitional and Saving Provisions) (Wales) Regulations 2023 (S.I. 2023/914 (W. 141)). The consultation referred to in the preamble to these Regulations was started before 5 September 2023.

**Enwi, cymhwyso a dod i rym**

**1.**—(1) Enw'r Rheoliadau hyn yw Rheoliadau Adeiladu (Gweithgareddau a Swyddogaethau Cyfyngedig) (Cymru) 2024.

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

(3) Daw'r Rheoliadau hyn i rym ar 6 Ebrill 2024.

**Dehongli**

**2.**—(1) Yn y Rheoliadau hyn—

mae i "adeilad" yr ystyr a roddir i "building" yn rheoliad 2 o Reoliadau 2010;

ystyr "Deddf 1984" ("*the 1984 Act*") yw Deddf Adeiladu 1984;

mae i "gwaith adeiladu" yr ystyr a roddir i "building work" yn rheoliad 3 o Reoliadau 2010;

ystyr "Rheoliadau 2010" ("*the 2010 Regulations*") yw Rheoliadau Adeiladu 2010(**1**);

ystyr "y Rheoliadau Arolygwyr Cymeradwy" ("*the Approved Inspectors Regulations*") yw Rheoliadau Adeiladu (Arolygwyr Cymeradwy etc.) 2010(**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 1984 yr un ystyr â'r geiriau a'r ymadroddion hynny yn y Ddeddf honno.

**Awdurdodau rheolaeth adeiladu: gweithgareddau a swyddogaethau cyfyngedig**

**3.**—(1) At ddibenion adran 46A(1) o Ddeddf 1984, mae'r gweithgareddau a ganlyn wedi eu rhagnodi'n weithgaredd cyfyngedig—

(a) pan gyflwynir cynlluniau sy'n ymwneud ag unrhyw waith adeiladu i awdurdod lleol o dan unrhyw ddarpariaeth yn Rheoliadau 2010, gwirio bod y cynlluniau hynny yn cydymffurfio ag unrhyw ofyniad yn y rheoliadau adeiladu(**3**) sy'n gymwys i'r gwaith adeiladu hwnnw;

(b) pan fo arolygiad o waith adeiladu i'w gynnal gan awdurdod lleol at ddiben gwirio y cydymffurfir ag unrhyw ofyniad yn y

(**1**) O.S. 2010/2214, a ddiwygiwyd gan O.S. 2013/747 (Cy. 89), O.S. 2013/2621 (Cy. 258), O.S. 2014/110 (Cy. 10), O.S. 2015/1486 (Cy. 165), O.S. 2016/611 (Cy. 168), O.S. 2018/558 (Cy. 97); mae offerynnau diwygio eraill ond nid yw'r un ohonynt yn berthnasol.

(**2**) O.S. 2010/2215, y mae diwygiadau iddo nad ydynt yn berthnasol i'r offeryn hwn.

(**3**) Gweler y diffiniad o "building regulations" yn adran 122 o Ddeddf 1984.

**Title, application and coming into force**

**1.**—(1) The title of these Regulations is the Building (Restricted Activities and Functions) (Wales) Regulations 2024.

(2) These Regulations apply in relation to Wales.

(3) These Regulations come into force on 6 April 2024.

**Interpretation**

**2.**—(1) In these Regulations—

"the 1984 Act" ("*Deddf 1984*") means the Building Act 1984;

"the 2010 Regulations" ("*Rheoliadau 2010*") means the Building Regulations 2010(**1**);

"the Approved Inspectors Regulations" ("*y Rheoliadau Arolygwyr Cymeradwy*") means the Building (Approved Inspectors etc.) Regulations 2010(**2**);

"building" ("*adeilad*") has the meaning given in regulation 2 of the 2010 Regulations;

"building work" ("*gwaith adeiladu*") has the meaning given in regulation 3 of the 2010 Regulations.

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

**Building control authorities: restricted activities and functions**

**3.**—(1) For the purposes of section 46A(1) of the 1984 Act, the following activities are prescribed as a restricted activity—

(a) where plans relating to any building work are submitted to a local authority under any provision of the 2010 Regulations, the checking of those plans for compliance with any requirement of the building regulations(**3**) which is applicable to that building work;

(b) where an inspection of building work is to be carried out by a local authority for the purpose of checking compliance with any requirement of the building regulations which is applicable

(**1**) S.I. 2010/2214, amended by S.I. 2013/747 (W. 89), S.I. 2013/2621 (W. 258), S.I. 2014/110 (W. 10), S.I. 2015/1486 (W. 165), S.I. 2016/611 (W. 168), S.I. 2018/558 (W. 97); there are other amending instruments but none is relevant.

(**2**) S.I. 2010/2215, to which there are amendments not relevant to this instrument.

(**3**) See the definition of "building regulations" in section 122 of the 1984 Act.

rheoliadau adeiladu sy'n gymwys i'r gwaith, cynnal yr arolygiad hwnnw ac amserlennu'r camau neu'r pwyntiau ar gyfer arolygiadau.

(2) At ddibenion adran 46A(2) o Ddeddf 1984, mae'r swyddogaethau a ganlyn wedi eu rhagnodi'n swyddogaeth gyfyngedig—

(a) penderfynu cais am gyfarwyddyd o dan adran 8 o Ddeddf 1984 (llacio rheoliadau adeiladu);

(b) pasio neu wrthod cynlluniau o dan adran 16 o Ddeddf 1984 (pasio neu wrthod cynlluniau) gan gynnwys arfer, mewn perthynas â'r cynlluniau hynny, bŵer yn—

(i) adran 19(1) o Ddeddf 1984 (defnyddio deunyddiau byrhoedlog),

(ii) adran 21(4) o Ddeddf 1984 (darparu draenio), neu

(iii) adran 25(1) o Ddeddf 1984 (darparu cyflenwad dŵr);

(c) pennu cyfnod y mae rhaid cael gwared ar adeilad neu waith adeiladu pan fo'r cyfnod hwnnw yn dod i ben, estyn y cyfnod hwnnw, gosod amodau mewn perthynas ag adeilad neu amrywio'r amodau hynny, o dan adran 19(2) neu (3) o Ddeddf 1984 (defnyddio deunyddiau byrhoedlog);

(d) ei gwneud yn ofynnol i adeilad gael ei ddraenio ar y cyd o dan adran 22 o Ddeddf 1984 (draenio adeiladau ar y cyd);

(e) rhoi cydsyniad o dan adran 23 o Ddeddf 1984 (darparu cyfleusterau ar gyfer sbwriel);

(f) rhoi hysbysiad neu roi tystysgrif o dan adran 25(3) o Ddeddf 1984 (darparu cyflenwad dŵr);

(g) arfer unrhyw bŵer o dan adran 33 o Ddeddf 1984 (profion i ganfod a gydymffurfir â rheoliadau adeiladu);

(h) penderfynu, at ddibenion adran 35 o Ddeddf 1984 (cosb am dorri rheoliadau adeiladu), a yw darpariaeth sydd wedi ei chynnwys mewn rheoliadau adeiladu wedi ei thorri;

(i) rhoi hysbysiad adran 36(**1**) neu benderfynu tynnu i lawr neu gael gwared ar waith neu wneud addasiadau iddo fel y'i tybir yn angenrheidiol o dan adran 36(3) o Ddeddf 1984 (cael gwared ar waith tramgwyddus neu ei addasu);

(**1**) Gweler y diffiniad o "section 36 notice" yn adran 36(4) o Ddeddf 1984.

to the work, the carrying out of that inspection and scheduling the stages or points for inspections.

(2) For the purposes of section 46A(2) of the 1984 Act, the following functions are prescribed as a restricted function—

(a) determining an application for a direction under section 8 of the 1984 Act (relaxation of building regulations);

(b) passing or rejecting plans under section 16 of the 1984 Act (passing or rejection of plans) including exercising, in relation to such plans, a power in—

(i) section 19(1) of the 1984 Act (use of short-lived materials),

(ii) section 21(4) of the 1984 Act (provision of drainage), or

(iii) section 25(1) of the 1984 Act (provision of water supply);

(c) fixing a period on the expiration of which a building or building work must be removed, extending such a period, imposing conditions in relation to a building or varying such conditions, under section 19(2) or (3) of the 1984 Act (use of short-lived materials);

(d) requiring a building to be drained in combination under section 22 of the 1984 Act (drainage of buildings in combination);

(e) giving consent under section 23 of the 1984 Act (provision of facilities for refuse);

(f) giving a notice or granting a certificate under section 25(3) of the 1984 Act (provision of water supply);

(g) exercising any power under section 33 of the 1984 Act (tests for conformity with building regulations);

(h) deciding, for the purposes of section 35 of the 1984 Act (penalty for contravening building regulations), whether there is a contravention of a provision contained in building regulations;

(i) giving a section 36 notice(**1**) or deciding to pull down or remove work or effect alterations in it as deemed necessary under section 36(3) of the 1984 Act (removal or alteration of offending work);

(**1**) See the definition of "section 36 notice" in section 36(4) of the 1984 Act.

(j) penderfynu a ddylid tynnu hysbysiad adran 36 yn ôl pan roddir adroddiad ysgrifenedig o dan adran 37(1)(a) o Ddeddf 1984 (cael adroddiad pan roddir hysbysiad adran 36);

(k) rhoi hysbysiad canslo o dan adran 52A(4) o Ddeddf 1984 (canslo hysbysiad cychwynnol pan fo gwaith yn dod yn waith adeilad risg uwch)(**1**);

(l) rhoi tystysgrif gwblhau o dan reoliad 17 o Reoliadau 2010 (tystysgrifau cwblhau);

(m) rhoi tystysgrif gwblhau o dan reoliad 17A o Reoliadau 2010 (tystysgrif ar gyfer adeilad a feddiennir cyn cwblhau'r gwaith)(**2**);

(n) penderfynu, pan fo rheoliad 18 o Reoliadau 2010 (gwaith adeiladu anawdurdodedig) yn gymwys—

(i) a ganiateir rhoi tystysgrif unioni o dan reoliad 18 o Reoliadau 2010;

(ii) a oes angen cymryd unrhyw gamau rhesymol o dan reoliad 18(3) o Reoliadau 2010;

(o) penderfynu, pan fo rheoliad 19(1) o'r Rheoliadau Arolygwyr Cymeradwy (gwaith sydd wedi ei gwblhau yn rhannol) yn gymwys—

(i) a yw cynlluniau a roddwyd o dan reoliad 19(2)(a) o'r Rheoliadau Arolygwyr Cymeradwy yn ddigonol i ddangos na fyddai'r gwaith a fwriedir yn torri unrhyw ofyniad yn Rheoliadau 2010;

(ii) a ddylai fod yn ofynnol i berchennog, mewn perthynas ag unrhyw ran o'r gwaith, dorri i mewn iddo, ei agor neu ei dynnu i lawr o dan reoliad 19(2)(b) o'r Rheoliadau Arolygwyr Cymeradwy.

(j) deciding whether to withdraw a section 36 notice where a written report is given under section 37(1)(a) of the 1984 Act (obtaining of report where section 36 notice given);

(k) giving a cancellation notice under section 52A(4) of the 1984 Act (cancellation of initial notice when work becomes higher-risk building work)(**1**);

(l) giving a completion certificate under regulation 17 of the 2010 Regulations (completion certificates);

(m) giving a completion certificate under regulation 17A of the 2010 Regulations (certificate for building occupied before work is completed)(**2**);

(n) deciding, where regulation 18 of the 2010 Regulations (unauthorised building work) applies, whether—

(i) a regularisation certificate under regulation 18 of the 2010 Regulations may be given;

(ii) any reasonable steps are required under regulation 18(3) of the 2010 Regulations;

(o) deciding, where regulation 19(1) of the Approved Inspectors Regulations (partly completed work) applies, whether—

(i) plans given under regulation 19(2)(a) of the Approved Inspectors Regulations are sufficient to show that the intended work would not contravene any requirement of the 2010 Regulations;

(ii) an owner should be required to cut into, lay open or pull down any of the work under regulation 19(2)(b) of the Approved Inspectors Regulations.

(**1**) Mewnosodwyd adran 52A yn Neddf 1984 gan adran 46 o Ddeddf 2022.

(**2**) Mewnosodwyd rheoliad 17A yn Rheoliadau Adeiladu 2010 (O.S. 2010/2214) gan O.S. 2012/3119.

(**1**) Section 52A was inserted into the 1984 Act by section 46 of the 2022 Act.

(**2**) Regulation 17A was inserted into the Building Regulations 2010 (S.I. 2010/2214) by S.I. 2012/3119.

**Cymeradwywyr cofrestredig rheolaeth adeiladu: gweithgareddau a swyddogaethau cyfyngedig**

**4.**—(1) At ddibenion adran 54B(2) o Ddeddf 1984, mae'r gweithgareddau a ganlyn wedi eu rhagnodi'n weithgaredd cyfyngedig—

(a) pan fo hysbysiad cychwynnol(**1**), hysbysiad diwygio(**2**) neu dystysgrif cynlluniau(**3**) i'w roi neu i'w rhoi mewn perthynas ag unrhyw waith adeiladu, gwirio bod cynlluniau y mae'r hysbysiad neu'r dystysgrif yn ymwneud â hwy yn cydymffurfio ag unrhyw ofyniad yn y rheoliadau adeiladu sy'n gymwys i'r gwaith;

(b) pan fo arolygiad o waith adeiladu i'w gynnal gan y cymeradwywr cofrestredig rheolaeth adeiladu at ddiben gwirio y cydymffurfir ag unrhyw ofyniad yn y rheoliadau adeiladu sy'n gymwys i'r gwaith, cynnal yr arolygiad hwnnw (gan gynnwys amserlennu'r camau neu'r pwyntiau ar gyfer arolygiadau).

(2) At ddibenion adran 54B(3) o Ddeddf 1984, mae'r swyddogaethau a ganlyn wedi eu rhagnodi'n swyddogaeth gyfyngedig—

(a) rhoi hysbysiad cychwynnol i awdurdod lleol o dan adran 47 o Ddeddf 1984 (hysbysiadau cychwynnol) gan gynnwys hysbysiad cychwynnol wedi ei gyfuno â thystysgrif cynlluniau neu hysbysiad cychwynnol newydd o dan adran 53(7) o Ddeddf 1984 (hysbysiadau cychwynnol newydd);

(b) rhoi tystysgrif cynlluniau i awdurdod lleol o dan adran 50 o Ddeddf 1984 (tystysgrifau cynlluniau);

(c) rhoi tystysgrif derfynol i awdurdod lleol o dan adran 51 o Ddeddf 1984 (tystysgrifau terfynol);

(d) rhoi hysbysiad diwygio i awdurdod lleol o dan adran 51A o Ddeddf 1984 (amrywio gwaith y mae hysbysiad cychwynnol yn ymwneud ag ef);

(e) rhoi hysbysiad i awdurdod lleol o dan adran 52(1)(c) neu 52A(1) o Ddeddf 1984 (canslo hysbysiad cychwynnol);

(f) rhoi tystysgrif drosglwyddo ac adroddiad trosglwyddo i awdurdod lleol o dan adran 53B(3) o Ddeddf 1984 (hysbysiad cychwynnol newydd: newid cymeradwywr cofrestredig rheolaeth adeiladu).

(**1**) Gweler y diffiniad o "initial notice" yn adran 47(1) o Ddeddf 1984.

(**2**) Gweler y diffiniad o "amendment notice" yn adran 51A(2) o Ddeddf 1984.

(**3**) Gweler y diffiniad o "plans certificate" yn adran 50(1) o Ddeddf 1984.

**Registered building control approvers: restricted activities and functions**

**4.**—(1) For the purposes of section 54B(2) of the 1984 Act, the following activities are prescribed as a restricted activity—

(a) where an initial notice(**1**), amendment notice(**2**) or plans certificate(**3**) is to be given in relation to any building work, the checking of plans to which the notice or certificate relates for compliance with any requirement of the building regulations which is applicable to the work;

(b) where an inspection of building work is to be carried out by the registered building control approver for the purpose of checking compliance with any requirement of the building regulations which is applicable to the work, the carrying out of that inspection (including scheduling the stages or points for inspections).

(2) For the purposes of section 54B(3) of the 1984 Act, the following functions are prescribed as a restricted function—

(a) giving an initial notice to a local authority under section 47 of the 1984 Act (initial notices) including an initial notice combined with a plans certificate or a new initial notice under section 53(7) of the 1984 Act (new initial notices);

(b) giving a plans certificate to a local authority under section 50 of the 1984 Act (plans certificates);

(c) giving a final certificate to a local authority under section 51 of the 1984 Act (final certificates);

(d) giving an amendment notice to a local authority under section 51A of the 1984 Act (variation of work to which initial notice relates);

(e) giving a notice to a local authority under section 52(1)(c) or 52A(1) of the 1984 Act (cancellation of initial notice);

(f) giving a transfer certificate and transfer report to a local authority under section 53B(3) of the 1984 Act (new initial notice: change of registered building control approver).

(**1**) See the definition of "initial notice" in section 47(1) of the 1984 Act.

(**2**) See the definition of "amendment notice" in section 51A(2) of the 1984 Act.

(**3**) See the definition of "plans certificate" in section 50(1) of the 1984 Act.

*Julie James*

Y Gweinidog Newid Hinsawdd, un o Weinidogion Cymru
28 Chwefror 2024

Minister for Climate Change, one of the Welsh Ministers
28 February 2024

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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.

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ISBN 978-0-348-39545-7

£8.14

http://www.legislation.gov.uk/id/wsi/2024/238