Deddf Diogelwch Adeiladau (Cymru) 2026

2026 dsc 5

Nodiadau Esboniadol

Building Safety (Wales) Act 2026

2026 asc 5

Explanatory Notes

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DEDDF DIOGELWCH ADEILADAU (CYMRU) 2026

NODIADAU ESBONIADOL

CYFLWYNIAD

1. Mae'r Nodiadau Esboniadol hyn ar gyfer Deddf Diogelwch Adeiladau (Cymru) 2026 a basiwyd gan Senedd Cymru ar 10 Mawrth 2026 ac a gafodd y Cydsyniad Brenhinol ar 27 Ebrill 2026. Fe'u lluniwyd gan Grŵp Llywodraeth Leol a Thai Llywodraeth Cymru er mwyn cynorthwyo'r sawl sy'n darllen y Ddeddf. Mae'r Nodiadau Esboniadol yn ymwneud â'r Ddeddf fel y cafodd y Cydsyniad Brenhinol.[1] Dylid darllen y Nodiadau Esboniadol ar y cyd â'r Ddeddf ond nid ydynt yn rhan ohoni.

CRYNODEB A'R CEFNDIR POLISI

2. Mae Deddf Diogelwch Adeiladau (Cymru) ("y Ddeddf") yn cyflwyno cyfundrefn ddiogelwch adeiladau newydd yng Nghymru sy'n canolbwyntio ar gam meddiannaeth cylch bywyd adeilad. Mae'n cwmpasu rheoleiddio risgiau diogelwch adeilad mewn adeiladau preswyl amlfeddiannaeth. Bydd darpariaethau'r Ddeddf yn helpu i fynd i'r afael â materion a nodwyd gan Adolygiad Hackitt, Ymchwiliad Tŵr Grenfell, a Grŵp Arbenigol Diogelwch Adeiladau Llywodraeth Cymru yn dilyn y tân trasig yn Nhŵr Grenfell, Llundain, ym mis Mehefin 2017.

3. Mae angen deddfwriaeth sylfaenol i gyflwyno cyfundrefn ddiogelwch adeiladau gynhwysfawr newydd y gellid ei chymhwyso ar draws pob adeilad preswyl amlfeddiannaeth.

4. Cynullwyd Grŵp Arbenigol Diogelwch Adeiladau gan Lywodraeth Cymru ym mis Hydref 2018 i nodi telerau'r ymateb o Gymru i'r materion a godwyd yn Adolygiad Hackitt a chynghori ar ba mor berthnasol yw'r Adolygiad i gyd-destun Cymreig. Roedd hyn yn cynnwys meysydd lle y gallai'r ymateb o Gymru fod yn gryfach neu gael ei ddatblygu ymhellach a'r meysydd y dylid rhoi blaenoriaeth arbennig iddynt wrth weithredu. Tynnodd y Grŵp sylw hefyd at feysydd yr oedd yn ystyried na ddylai Llywodraeth Cymru wyro oddi wrth y dull gweithredu a gymerwyd gan Lywodraeth y DU a phan y dylai'r ddwy lywodraeth weithio mewn partneriaeth.

5. Agorwyd ymgynghoriad Papur Gwyn Adeiladau Mwy Diogel yng Nghymru ym mis Ionawr 2021. Cynigiodd ddiwygio deddfwriaeth mewn ffordd gynhwysfawr, sef ailwampio'n sylweddol y system diogelwch adeiladau bresennol yng Nghymru. Cyhoeddodd Llywodraeth Cymru ei hymateb i'r ymgynghoriad ar 14 Rhagfyr 2021.

6. Mae Deddf Diogelwch Adeiladau (Cymru) yn sefydlu trefn newydd ar gyfer meddiannu a rheoli'n barhaus adeiladau preswyl amlfeddiannaeth sy'n deillio o ffrwd waith ddiwygio deddfwriaethol y Rhaglen Diogelwch Adeiladau.

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[1] Gellir canfod newidiadau sydd wedi eu gwneud i'r Ddeddf ers iddi gael y Cydsyniad Brenhinol drwy ddefnyddio'r cyfleuster "Newidiadau i Ddeddfwriaeth" yn www.legislation.gov.uk/cy/changes.

These notes refer to the Building Safety (Wales) Act 2026 (asc 5)
which received Royal Assent on 27 April 2026

BUILDING SAFETY (WALES) ACT 2026

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes are for the Building Safety (Wales) Act 2026 which was passed by Senedd Cymru on 10 March 2026 and received Royal Assent on 27 April 2026. They have been prepared by the Local Government and Housing Group of the Welsh Government to assist the reader of the Act. The Explanatory Notes relate to the Act as it received Royal Assent.[1] They should be read in conjunction with the Act but are not part of it.

SUMMARY AND POLICY BACKGROUND

2. The Building Safety (Wales) Act ("the Act") introduces a new building safety regime in Wales focusing on the occupation phase of a building's life cycle. It covers the regulation of building safety risks in multi-occupied residential buildings. The Act's provisions will help to address issues identified by the Hackitt Review, the Grenfell Tower Inquiry, and Welsh Government's Building Safety Expert Group in the aftermath of the tragic fire at Grenfell Tower, London, in June 2017.

3. Primary legislation is required to introduce a comprehensive new building safety regime that could be applied across all multi-occupied residential buildings.

4. The Welsh Government convened a Building Safety Expert Group in October 2018 to identify the terms of a Welsh response to the issues raised by the Hackitt Review and advise on the applicability of the Review to the Welsh context. This included areas that a Welsh response could strengthen or develop further and areas for particular priority in terms of implementation. The Group also highlighted areas where it considered that the Welsh Government should not deviate from the approach taken by the UK Government and where both governments should work in partnership.

5. The Safer Buildings in Wales White Paper consultation opened in January 2021. It proposed a comprehensive reform of legislation, representing a significant overhaul of the existing system for building safety in Wales. The Welsh Government published its response to the consultation on 14 December 2021.

6. The Building Safety (Wales) Act establishes a new regime for the occupation and ongoing management of multi-occupied residential buildings arising from the legislative reform workstream of the Building Safety Programme.

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[1] Changes that have been made to the Act since it received Royal Assent can be identified using the "Changes to Legislation" facility at www.legislation.gov.uk/changes.

7. I grynhoi, mae'r Ddeddf yn:
   - nodi'r rheini y mae dyletswyddau statudol o dan y Ddeddf i'w gosod arnynt;
   - ei gwneud yn ofynnol i gofrestru adeiladau rheoleiddiedig penodol h.y. y rhai sydd o leiaf 11 o fetrau o uchder neu sydd ag o leiaf 5 llawr gydag awdurdod diogelwch adeiladau;
   - rhoi swyddogaethau newydd i'r "awdurdod diogelwch adeiladau", sef awdurdod lleol ym mhob ardal awdurdod tân ac achub a ddynodir gan Weinidogion Cymru fel yr awdurdod diogelwch adeiladau ar gyfer yr ardal honno;
   - rhoi swyddogaethau newydd i'r "awdurdod diogelwch tân" yng Nghymru, sef pob awdurdod tân ac achub ar gyfer ardal yng Nghymru neu arolygydd tân (o ran mangreoedd y Goron);
   - creu dyletswyddau i asesu a rheoli risgiau diogelwch tân ym mhob adeilad sydd o fewn y cwmpas;
   - creu dyletswyddau i asesu a rheoli risgiau diogelwch strwythurol mewn adeiladau sydd o fewn y cwmpas sydd o leiaf 11 o fetrau o uchder neu sydd ag o leiaf 5 llawr;
   - rhoi hawliau newydd ar waith i breswylwyr a gosod dyletswyddau arnynt mewn cysylltiad â'r holl adeiladau sydd o fewn y cwmpas;
   - sefydlu cyfundrefn orfodi newydd i alluogi i gamau gorfodi gael eu cymryd os nad yw'r dyletswyddau newydd yn cael eu bodloni;
   - galluogi Gweinidogion Cymru, drwy reoliadau, i ddarparu y caiff y tribiwnlys eiddo preswyl wneud gorchymyn cyweirio; a chaiff wneud gorchymyn cyfraniadau cyweirio a fyddai'n ei gwneud yn ofynnol i gorff corfforedig perthnasol neu bartneriaeth berthnasol wneud taliadau i berson penodedig at ddibenion talu costau yr aed iddynt wrth unioni diffygion perthnasol sy'n ymwneud ag adeilad perthnasol, neu mewn cysylltiad â hynny fel arall;
   - galluogi Gweinidogion Cymru, drwy reoliadau, i wneud darpariaeth sy'n cyfyngu (mewn rhai achosion, i ddim) ar y gofyniad i dalu taliadau gwasanaeth penodol, ac i wneud darpariaeth gysylltiedig.

8. Mae'r Ddeddf yn cynnwys 5 Rhan a 4 Atodlen.

SYLWADAU AR YR ADRANNAU

RHAN 1 – DIOGELWCH ADEILADAU SY'N CYNNWYS DWY NEU RAGOR O UNEDAU PRESWYL

PENNOD 1 – TROSOLWG

Adran 1 – Trosolwg o Ran

9. Mae'r adran hon yn rhoi trosolwg o Ran 1 o'r Ddeddf.

PENNOD 2 – TERMAU ALLWEDDOL

Adeiladau rheoleiddiedig, unedau preswyl a chategorïau adeiladau

Adran 2 – Ystyr "adeilad rheoleiddiedig"

10. Mae'r adran hon yn nodi ystyr "adeilad rheoleiddiedig" at ddibenion y Ddeddf.

11. Mae is-adran (1) yn nodi bod rhaid i "adeilad rheoleiddiedig" gynnwys o leiaf ddwy uned breswyl ac mae rhaid i'r adeilad fod yn gyfan gwbl neu'n bennaf yng Nghymru.

7. In summary, the Act:
   - identifies those on whom statutory duties under the Act are to be placed;
   - requires the registration of certain regulated buildings i.e. those at least 11 metres in height or which have at least 5 storeys with a building safety authority;
   - confers new functions on the "building safety authority", which is a local authority in each fire and rescue authority area that is designated by the Welsh Ministers as the building safety authority for that area;
   - confers new functions on the "fire safety authority" in Wales, which is each fire and rescue authority for an area in Wales or a fire inspector (as regards Crown premises);
   - creates duties to assess and manage fire safety risks in all in-scope buildings;
   - creates duties to assess and manage structural safety risks in in-scope buildings that are at least 11 metres in height, or which have at least 5 storeys;
   - puts in place new rights for residents and place duties on them in respect of all in-scope buildings;
   - establishes a new enforcement regime to enable enforcement action to be taken if the new duties are not met;
   - enables the Welsh Ministers, by regulations, to provide that the residential property tribunal may make a remediation order; and may make a remediation contribution order that would require payments to be made by a relevant body corporate or partnership to a specified person for the purposes of meetings costs incurred in remedying, or otherwise in connection with, relevant defects relating to a relevant building;
   - enables the Welsh Ministers by regulations, to make provision limiting (in some cases to nil), the requirement to pay certain service charges, and to make connected provision.

8. The Act comprises 5 Parts and 4 Schedules.

COMMENTARY ON SECTIONS
PART 1 - SAFETY OF BUILDINGS CONTAINING TWO OR MORE RESIDENTIAL UNITS
CHAPTER 1 - OVERVIEW
Section 1 - Overview of Part

9. This section gives an overview of Part 1 of the Act.

CHAPTER 2 - KEY TERMS
Regulated buildings, residential units and categories of building
Section 2 - Meaning of "regulated building"

10. This section sets out the meaning of "regulated building" for the purpose of the Act.

11. Subsection (1) sets out that a "regulated building" must contain at least two residential units and that the building must be wholly or mainly in Wales.

12. Mae is-adran (2) yn darparu bod adeiladau o ddisgrifiad yn Atodlen 1 wedi eu heithrio o'r diffiniad o "adeilad rheoleiddiedig".

13. Mae is-adran (3) yn cyfeirio darllenwyr at ddarpariaethau eraill (adrannau 3 i 7) sy'n diffinio termau allweddol sy'n berthnasol i ystyr "adeilad rheoleiddiedig". Mae'r termau allweddol hyn yn cynnwys:
    - "adeilad"
    - "rhan annibynnol"
    - "uned breswyl"
    - "adeilad categori 1", "adeilad categori 2" ac "adeilad categori 3"
    - "ardal atodol"

Adran 3 – Ystyr "adeilad"

14. Mae adran 3 yn nodi ystyr "adeilad" at ddibenion adran 2. Diben yr adran hon yw nodi paramedrau'r "adeilad" y mae angen eu hystyried wrth benderfynu pa un a yw'r adeilad hwnnw'n bodloni'r meini prawf ar gyfer bod yn "adeilad rheoleiddiedig". Os yw'r adeilad hwnnw yn bodloni'r meini prawf ar gyfer bod yn "adeilad rheoleiddiedig" bydd wedyn yn cael ei gategoreiddio o dan adran 6 yn un o dri chategori.

15. Mae is-adran (2) yn darparu, yn achos strwythur nad yw ynghlwm wrth unrhyw strwythur arall, bod y strwythur hwnnw yn "adeilad" at ddibenion adran 2. Fodd bynnag, mae hyn yn amodol ar pa un a yw'r strwythur yn cynnwys unrhyw rannau annibynnol. Os yw'r strwythur yn cynnwys unrhyw rannau annibynnol, mae pob rhan annibynnol yn "adeilad" at ddibenion adran 2 (is-adrannau (4) a (5)).

16. Mae is-adran (3) yn darparu ar gyfer achosion pan fo strwythurau ynghlwm wrth ei gilydd. Mae'r set o strwythurau yn "adeilad" at ddibenion adran 2, gan gynnwys rhannau sy'n eu cysylltu â'i gilydd. Fodd bynnag, mae hyn yn amodol ar ba un a yw'r set o strwythurau yn cynnwys unrhyw rannau annibynnol. Os yw'r set yn cynnwys unrhyw rannau annibynnol, mae pob rhan annibynnol yn "adeilad" at ddibenion adran 2 (is-adrannau (4) a (5)).

17. Er enghraifft, yn achos datblygiad cymhleth o strwythurau sy'n rhychwantu ardal fawr, cyhyd â bod y strwythurau ynghlwm wrth ei gilydd, mae'r strwythurau a'r adeiladweithiau sy'n eu cysylltu, gyda'i gilydd, yn "adeilad" ar yr olwg gyntaf. Fodd bynnag, mae yna angen ystyried y set o strwythurau i benderfynu pa un a yw unrhyw rannau ohono yn bodloni'r meini prawf ar gyfer bod yn rhan annibynnol. Mae'r meini prawf ar gyfer bod yn rhan annibynnol wedi eu nodi yn adran 4.

18. Mae'n bosibl i strwythur neu set o strwythurau fod â mwy nag un "adeilad" ynddo at ddibenion adran 2.

19. Mae is-adran (6) yn nodi ystyr "strwythur" at ddibenion yr adran hon h.y. adeiladwaith sydd iddo do a waliau. Mae adeiladwaith sydd iddo do a waliau yn dal yn "strwythur" hyd yn oed os yw'n cynnwys rhannau nad oes iddynt do neu waliau (er enghraifft, llwybr cerdded nad oes iddo do).

Adran 4 – Ystyr "rhan annibynnol"

20. Mae adran 4 yn gwneud darpariaeth ynghylch ystyr "rhan annibynnol".

12. Subsection (2) provides that buildings of a description in Schedule 1 are excluded from the definition of "regulated building".

13. Subsection (3) signposts readers to other provisions (sections 3 to 7) which define key terms relevant to the meaning of "regulated building". These key terms include:
    - "building"
    - "independent part"
    - "residential unit"
    - "category 1 building", "category 2 building" and "category 3 building"
    - "ancillary area"

Section 3 - Meaning of "building"

14. Section 3 sets out the meaning of "building" for the purposes of section 2. The purpose of this section is to identify the parameters of the "building" that needs to be considered when deciding whether that building meets the criteria for being a "regulated building". If that building does meet the criteria for being a "regulated building" it will subsequently be categorised under section 6 into one of three categories.

15. Subsection (2) provides that in the case of a structure that is not attached to any other structure, that structure is a "building" for the purposes of section 2. However, this is subject to whether the structure contains any independent parts. If the structure contains any independent parts, each independent part is a "building" for the purposes of section 2 (subsections (4) and (5)).

16. Subsection (3) provides for the case of structures that are attached to each other. The set of structures is a "building" for the purposes of section 2, including parts that attach them to each other. However, this is subject to whether the set of structures contains any independent parts. If the set contains any independent parts, each independent part is a "building" for the purposes of section 2 (subsections (4) and (5)).

17. For example, in the case of a complex development of structures spanning a large area, so long as the structures are attached, the structures and the constructions attaching them are together a "building" at first sight. However, it is then necessary to consider the set of structures to decide if any parts of it meet the criteria for being an independent part. The criteria for being an independent part are set out in section 4.

18. It is possible for a structure or a set of structures to have more than one "building" within it for the purposes of section 2.

19. Subsection (6) sets out the meaning of "structure" for the purposes of this section i.e. a roofed construction with walls. A construction with walls and a roof is still a "structure" even if it includes parts that do not have a roof or walls (for example, a walkway that does not have a roof).

Section 4 - Meaning of "independent part"

20. Section 4 makes provision about the meaning of "independent part".

21. Os yw rhan o strwythur neu set o strwythurau yn "rhan annibynnol" ("Rhan A"), yna mae'r rhan honno yn "adeilad" at ddibenion adran 2 (gweler adran 3(5)). Os yw Rhan A yn bodloni'r meini prawf ar gyfer bod yn adeilad rheoleiddiedig yna, yn dibynnu ar ba gategori o adeilad ydyw, mae'r dyletswyddau perthnasol o dan y Ddeddf yn gymwys mewn perthynas ag ef. Er enghraifft, os yw Rhan A yn adeilad categori 1 neu categori 2, mae'r prif berson atebol yn cyflawni trosedd os yw Rhan A "wedi ei meddiannu" ond heb ei chofrestru (adran 19). Diffinnir "wedi ei feddiannu" yn adran 136.

22. Y bwriad y tu ôl i'r prawf rhan annibynnol yw cydnabod, os yw rhan o strwythur neu set o strwythurau yn bodloni meini prawf penodol, ei bod yn briodol iddo gael ei ystyried yn "adeilad" ynddo'i hun (yn hytrach na'r cyfan o'r strwythur neu'r set o strwythurau yn cael ei ystyried yn "adeilad" a'r prawf "adeilad rheoleiddiedig" yn cael ei gymhwyso i'r cyfan hwnnw).

23. Mae'r meini prawf "rhan annibynnol" yn edrych ar a oes gan ran fynediad i rannau eraill o'r strwythur (neu set o strwythurau) ac a yw'n bargodi uwchben rhannau eraill sy'n rhannau preswyl. Os yw rhan annibynnol yna'n bodloni'r meini prawf ar gyfer bod yn "adeilad rheoleiddiedig", mae'r rhan fwyaf o'r dyletswyddau o dan y Ddeddf yn gymwys drwy gyfeirio at baramedrau'r rhan annibynnol honno ac unrhyw ardaloedd atodol a allai fod ganddi (gweler adran 7). Enghraifft yw'r ddyletswydd o dan adran 29 ar gyfer y prif berson atebol ar gyfer adeilad rheoleiddiedig "wedi ei feddiannu" i sicrhau bod asesiad o'r risgiau diogelwch tân sy'n gysylltiedig â'r adeilad hwnnw.

24. Mae'r meini prawf ar gyfer bod yn rhan annibynnol wedi eu nodi yn is-adran (1). Mae dwy elfen i'r meini prawf (paragraffau (a) a (b)) a rhaid bodloni'r ddwy elfen.

25. Mae paragraff (a) yn ei gwneud yn ofynnol i'r rhan sy'n cael ei hystyried beidio â chael unrhyw "mynediad" i ran arall o'r strwythur (neu set o strwythurau, os yw'n rhan o set o strwythurau). Os oes "mynediad" o un ardal o strwythur i'r llall, yna nid yw yr un o'r ardaloedd hynny yn unigol yn gallu bod yn "rhan annibynnol" (oni bai bod y "mynediad" yn cael ei ddiystyru o dan is-adran (7) e.e. os bwriedir iddo fod at ddefnydd brys yn unig).

26. Mae paragraff (b) yn ei gwneud yn ofynnol i'r rhan sy'n cael ei hystyried ffurfio rhaniad fertigol o'r strwythur neu'r set.

27. Mae is-adran (2) yn nodi ystyr rhaniad fertigol. Mae'n darparu, er mwyn i'r rhan sy'n cael ei hystyried yn "rhaniad fertigol", bod rhaid iddi rannu'r strwythur (neu set o strwythurau) o'r top i'r gwaelod, ac ni ddylai llinell/llinellau y rhaniad wyro o blân fertigol. Fodd bynnag, mae hyn yn ddarostyngedig i is-adran (3).

21. If a part of a structure or set of structures is an "independent part" ("Part A") then that part is a "building" for the purposes of section 2 (see section 3(5)). If Part A meets the criteria for being a regulated building, then, depending on what category of building it is, the relevant duties under the Act apply in respect of it. For example, if Part A is a category 1 or category 2 building, the principal accountable person commits an offence if Part A is "occupied" but not registered (section 19). "Occupied" is defined in section 136.

22. The intention behind the independent part test is to recognise that if a part of a structure or set of structures meets certain criteria it is appropriate for it to be considered a "building" in its own right (rather than the whole of the structure or set of structures being considered a "building" and the "regulated building" test being applied to that whole).

23. The "independent part" criteria look at whether a part has access to other parts of the structure (or set of structures) and whether it overhangs other parts that are residential. If an independent part, then meets the criteria for being a "regulated building", most of the duties under the Act apply by reference to the parameters of that independent part and any ancillary areas that it may have (see section 7). An example is the duty under section 29 for the principal accountable person for an "occupied" regulated building to ensure that there is an assessment of the fire safety risks relating to that building.

24. The criteria for being an independent part are set out in subsection (1). There are two elements to the criteria (paragraphs (a) and (b)) and both elements must be met.

25. Paragraph (a) requires the part being considered to have no "access" to another part of the structure (or set of structures, if it is part of a set of structures). If there is "access" from one area of a structure to another then neither of those areas is individually capable of being an "independent part" (unless the "access" is disregarded under subsection (7) e.g. if it is intended to be for emergency use only).

26. Paragraph (b) requires the part being considered to constitute a vertical division of the structure or set.

27. Subsection (2) sets out the meaning of vertical division. It provides that for the part being considered to constitute a "vertical division" that part must divide the structure (or set of structures) from the top to the bottom, and the line/ lines of the division must not deviate from a vertical plane. However, this is subject to subsection (3).

28. Effaith elfen rhaniad fertigol y meini prawf rhan annibynnol yw atal rhan o strwythur sy'n cynnwys uned breswyl ac sy'n bargodi uwchben rhan o strwythur sy'n cynnwys uned breswyl arall, rhag ffurfio adeilad ar wahân o dan y Ddeddf, hyd yn oed pan nad oes gan y ddwy ran fynediad at ei gilydd. Un o'r rhesymau am hyn yw i gydnabod os yw tân yn lledaenu, ei fod yn fwy tebygol o ledaenu ar i fyny. Felly, er enghraifft, yn y sefyllfa a ddisgrifir yma byddai'r rhan sy'n bargodi uwchben a'r rhan oddi tano yn cael eu hystyried yn un adeilad a byddai dyletswyddau asesu risg o dan y Ddeddf yn gymwys yn unol â hynny.

29. Mae is-adran (3) yn darparu, wrth gymhwyso'r prawf "rhaniad fertigol" i ran, bod bodolaeth unrhyw rannau eraill o'r strwythur (neu set o strwythurau) sy'n bodloni'r meini prawf yn yr is-adran honno i'w diystyru fel nad ydynt yn atal y prawf rhaniad fertigol rhag cael ei fodloni.

30. Pe bai rhywun yn ceisio delweddu effaith is-adran (3), gellid delweddu'r rhan annibynnol bosibl ("Rhan A") o strwythur fel un wedi ei harlliwio mewn lliw penodol, a'r rhan sy'n bodloni'r meini prawf yn is-adran (3) ("Rhan B") yn cael ei harlliwio yn yr un lliw, fel bod y ddwy ran gyda'i gilydd yn ffurfio bloc o un lliw. Byddai'r ddwy ran gyda'i gilydd yn ffurfio bloc o un lliw sy'n rhannu'r strwythur o'r top i'r gwaelod ar hyd plân fertigol. Byddai Rhan A yn rhan annibynnol, ar yr amod ei bod hefyd yn bodloni'r meini prawf yn is-adran (1)(a) – dim mynediad i unrhyw ran arall o'r strwythur.

31. Mae is-adran (4) yn diffinio "rhan amhreswyl" at ddibenion is-adran (3).

32. Enghraifft i'w hystyried yw sefyllfa pan fo dau floc o fflatiau uwchben mangre fasnachol, nid oes unrhyw ran o'r naill floc neu'r llall yn bargodi dros y bloc arall, ac nid ydynt yn rhannu mynediad â'i gilydd nac â'r fangre fasnachol. Effaith is-adran (3) fyddai na fyddai bodolaeth y fangre fasnachol yn atal pob bloc rhag ffurfio rhaniad fertigol o'r strwythur. Gan dybio bod gan bob bloc ardal fynedfa (e.e. twll grisiau neu fynediad i lifftiau) sy'n rhedeg yn gyfagos (ond nad yw'n rhannu mynediad â, ac nad oes ganddo fynediad) i'r fangre fasnachol ar lefel y llawr daear, yna bydd yn anochel rywfaint o wyriad yn y llinell o'r rhaniad fertigol rhwng y fangre fasnachol a'r bloc uwchben. Fodd bynnag, wrth feddwl am y sefyllfa mewn termau gweledol, effaith is-adran (3) yw arlliwio'r rhan o'r ardal fasnachol sydd o dan bob bloc yn yr un lliw â'r bloc fel bod pob bloc yn cael ei drin fel pe bai'n rhannu'r strwythur o'r top i'r gwaelod ar hyd plân fertigol. Mewn sefyllfa o'r fath byddai pob bloc o fflatiau yn "rhan annibynnol" ac felly yn "adeilad" at ddibenion adran 2.

33. Mae is-adran (5) yn gwneud darpariaeth ar gyfer achosion pan fyddai rhan o adeilad yn bodloni'r prawf rhaniad fertigol oni bai am y ffaith na all y rhan fod yn "rhaniad fertigol" o'r strwythur oherwydd bod y rhan yn ffurfio lled cyfan y strwythur. Er enghraifft, pan fo un bloc o fflatiau uwchben mangre fasnachol, mae'r bloc o fflatiau yn dal i allu bod yn "rhan annibynnol" (ac felly yn "adeilad") ar wahân i'r rhan fasnachol isod (cyn belled nad yw'n rhannu mynediad â'r rhan fasnachol neu fod ganddi fynediad iddi). Y rheswm dros y ddarpariaeth hon yw cyflawni canlyniad yn y math hwn o sefyllfa sy'n gyson â'r canlyniad yn y sefyllfa a ddisgrifir uchod (dau floc o fflatiau uwchben mangre fasnachol).

28. The effect of the vertical division element of the independent part criteria is to prevent a part of a structure that contains a residential unit and that overhangs a part of a structure containing another residential unit, from constituting a separate building under the Act, even where the two parts have no access to each other. One of the reasons for this is to recognise that if fire spreads it is most likely to spread upwards. Therefore, for example, in the scenario described here the overhanging part and the underhanging part would be considered a single building and risk assessment duties under the Act would apply accordingly.

29. Subsection (3) provides that when applying the "vertical division" test to a part, the existence of any other parts of the structure (or set of structures) that meet the criteria in that subsection are to be disregarded so that they do not prevent the vertical division test from being met.

30. If one was trying to visualise the effect of subsection (3), one could visualise the potential independent part ("Part A") of a structure as being shaded in a particular colour, and the part that meets the criteria in subsection (3) ("Part B") being shaded in the same colour, so that the two parts together form a block of one colour. The two parts would together form a block of one colour that divides the structure from top to bottom along a vertical plane. Part A would be an independent part, provided it also met the criteria in subsection (1)(a) – no access to any other part of the structure.

31. Subsection (4) defines "non-residential part" for the purposes of subsection (3).

32. An example to consider is a scenario in which there are two blocks of flats above a commercial premises, no part of either block overhangs the other block, and they do not share access with each other or with the commercial premises. The effect of subsection (3) would be that the existence of the commercial premises would not prevent each block from constituting a vertical division of the structure. Assuming that each block has an entrance area (e.g. stairwell or access to lifts) that runs adjacent to (but does not share access with or have access to) the commercial premises at the ground floor level, then there will inevitably be some deviation in the line of the vertical division as between the commercial premises and the block above. However, thinking of the scenario in visual terms, the effect of subsection (3) is to shade the part of the commercial area that is under each block in the same colour as the block so that each block is treated as if it divided the structure from top to bottom along a vertical plane. In such a scenario each block of flats would be an "independent part" and therefore a "building" for the purposes of section 2.

33. Subsection (5) makes provision for cases where a part of a building would meet the vertical division test but for the fact that the part cannot constitute a "vertical division" of the structure because the part makes up the whole width of the structure. For example, where there is a single block of flats above commercial premises the block of flats is still capable of being an "independent part" (and therefore a "building") separate from the commercial part below (so long as it does not share access with or have access to the commercial part). The reason for this provision is to achieve a result in this type of scenario that is consistent with the result in the scenario described above (two blocks of flats above commercial premises).

34. Yn y sefyllfa o ddau floc o fflatiau, mae pob bloc o fflatiau yn dod i'r amlwg o'r prawf rhan annibynnol fel rhan annibynnol ar wahân, ac felly, yn "adeilad". Nid yw'r fangre fasnachol yn rhan o'r naill "adeilad" na'r llall o dan y Ddeddf (er bod dyletswyddau a osodir gan y Ddeddf a fyddai'n ymwneud â'r fangre fasnachol). Mae is-adran (5) at ddibenion cyflawni canlyniad cyson yn y sefyllfa o un bloc o fflatiau uwchben mangre fasnachol (nad yw'r bloc yn rhannu mynediad ag ef, ac nad oes ganddo fynediad iddo) – byddai'r bloc o fflatiau yn rhan annibynnol o ganlyniad i'r prawf rhan annibynnol ac felly yn "adeilad" o dan y Ddeddf. Ni fyddai'r fangre fasnachol yn rhan o'r adeilad hwnnw.

35. Mae is-adran (6) yn galluogi Gweinidogion Cymru i wneud rheoliadau i bennu, mewn amgylchiadau penodol, bod rhan o strwythur neu set o strwythurau nad yw ynghlwm yn "rhan annibynnol", er nad yw felly o dan yr adran hon. Mae hyn yn galluogi diwallu modelau perchnogaeth a dyluniadau adeiladau mwy anarferol, fel y bydd y dyletswyddau o dan y Ddeddf yn gymwys yn briodol.

36. Mae is-adran (7) yn diffinio "mynediad" fel drws, porth bwaog neu agoriad tebyg. Nid yw mynedfeydd o'r fath a fwriedir ar gyfer defnydd eithriadol (megis defnydd brys) neu ddefnydd at ddibenion cynnal a chadw wedi eu cynnwys.

Adran 5 – Ystyr "uned breswyl"

37. Mae adran 5 yn gwneud darpariaeth ynghylch ystyr "uned breswyl" at ddibenion y Ddeddf. Er mwyn bod yn "adeilad rheoleiddiedig" rhaid i adeilad gynnwys o leiaf ddwy uned breswyl (adran 2(1)).

38. Mae is-adran (6) yn darparu, yn benodol, y caniateir defnyddio rheoliadau o dan is-adran (5) i eithrio adeiladau neu rannau o adeiladau a allai fel arall gael eu cwmpasu gan y diffiniad. Gall rheoliadau hefyd wneud darpariaeth am ystyr "uned llety byw" a sut mae unedau preswyl i'w cyfrif. Enghraifft o hyn yw pan fo gan ddwy "uned breswyl" ryw lefel o ryngddibyniaeth ar ei gilydd a gallai'r rheoliadau ddarparu eu bod i'w cyfrif fel un uned breswyl.

39. Mae'r pwerau gwneud rheoliadau hyn yn sicrhau, er enghraifft, y gellir darparu ar gyfer materion sy'n deillio o fodelau llety byw newydd neu fwy anarferol yn benodol os bydd yn angenrheidiol.

40. Rhaid i Weinidogion Cymru ymgynghori â phob awdurdod diogelwch adeiladau, pob awdurdod diogelwch tân ac unrhyw bersonau eraill y maent yn ystyried eu bod yn briodol cyn gwneud rheoliadau o dan yr adran hon.

Adran 6 – Categorïau o adeilad rheoleiddiedig

41. Mae'r adran hon yn nodi sut mae'r tri chategori gwahanol o "adeiladau rheoleiddiedig" yn cael eu diffinio. Pan fo adeilad wedi ei nodi fel "adeilad rheoleiddiedig" drwy adrannau 2 a 3 (a 4 os yw'n berthnasol) caiff ei gategoreiddio o dan yr adran hon. Mae rhai dyletswyddau o dan y Ddeddf yn gymwys yn unig mewn perthynas ag adeiladau sy'n dod o fewn categori penodol. Mae'r ddarpariaeth hon ac unrhyw reoliadau a wneir oddi tani yn penderfynu pa gategori y daw adeilad rheoleiddiedig o'i fewn.

42. Mae adeiladau categori 1 yn o leiaf 18 o fetrau o uchder neu mae iddynt o leiaf 7 llawr.

34. In the scenario of two blocks of flats, each block of flats emerges from the independent part test as a separate independent part, and therefore, "building". The commercial premises is not part of either "building" under the Act (although there are duties imposed by the Act that would relate to the commercial premises). Subsection (5) is for the purpose of achieving a consistent result in the scenario of a single block of flats above commercial premises (with which the block does not share access, and to which it does not have access) – the block of flats would emerge from the independent part test as an independent part and therefore "building" under the Act. The commercial premises would not be part of that building.

35. Subsection (6) enables the Welsh Ministers to make regulations to specify that, in particular circumstances, a part of an unattached structure or set of structures is an "independent part," despite it not being such under this section. This enables more unusual ownership models and designs of buildings to be accommodated, so that the duties under the Act apply appropriately.

36. Subsection (7) defines "access" as being a doorway, archway or similar opening. Such accesses intended for exceptional use (such as emergency use) or use for the purposes of maintenance are not included.

Section 5 - Meaning of "residential unit"

37. Section 5 makes provision about the meaning of "residential unit" for the purposes of the Act. In order to be a "regulated building" a building must contain at least two residential units (section 2(1)).

38. Subsection (6) provides that, in particular, regulations under subsection (5) may be used to exclude buildings or parts of buildings that might otherwise be captured by the definition. Regulations can also make provision about the meaning of "unit of living accommodation" and how residential units are to be counted. An example of this may be where two "residential units" have some level of interdependency on each other and the regulations could provide that they are to be counted as one residential unit.

39. These regulation making powers ensure that, for example, issues arising from new or more unusual living accommodation models can be specifically provided for if it becomes necessary.

40. The Welsh Ministers must consult each building safety authority, each fire safety authority and any other persons they consider appropriate before making regulations under this section.

Section 6 - Categories of regulated building

41. This section sets out how the three different categories of "regulated buildings" are defined. When a building has been identified as a "regulated building" via sections 2 and 3 (and 4 if relevant) it is categorised under this section. Some duties under the Act apply only in relation to buildings that come within a particular category. This provision and any regulations made under it determine which category a regulated building comes within.

42. Category 1 buildings are at least 18 metres in height or have at least 7 storeys.

43. Mae adeiladau categori 2 yn o leiaf 11 o fetrau o uchder neu mae iddynt o leiaf 5 llawr ond maent yn llai na 18 o fetrau o uchder ac mae iddynt lai na 7 llawr h.y. nid ydynt yn adeilad categori 1.

44. Mae adeiladau categori 3 yn llai nag 11 o fetrau o uchder ac mae iddynt lai na 5 llawr.

45. Mae is-adran (5) yn diffinio ar ba bryd y mae llawr mesanîn i'w ystyried fel "llawr" mewn cysylltiad ag adeiladau rheoleiddiedig.

46. Mae is-adran (6) yn rhoi pŵer i Weinidogion Cymru wneud rheoliadau i ategu'r adran hon. Er enghraifft, caiff rheoliadau nodi manylion sut i fesur uchder adeilad neu ddarparu ar gyfer sut mae lloriau i'w cyfrif.

47. Caniateir defnyddio rheoliadau hefyd i wneud darpariaeth ar gyfer pryd y dylid trin adeiladau o ddisgrifiad penodol fel rhai sy'n dod o dan gategori gwahanol nag y byddent fel arall. Gallai hyn fod oherwydd tystiolaeth sy'n nodi bod adeiladau o'r fath mewn risg uwch neu risg is nag adeiladau eraill o fewn y categori y byddent fel arall yn dod o dan.

Adran 7 – Cynnwys ardaloedd atodol mewn cyfeiriadau at adeiladau rheoleiddiedig

48. Mae adran 7 yn darparu, yng ngweddill y Ddeddf (h.y., nid yn adrannau 2 i 7 nac yn Atodlen 1), bod unrhyw gyfeiriad at adeilad rheoleiddiedig yn cynnwys unrhyw "ardal atodol" nad yw'n rhan o'r "adeilad" sydd wedi ei nodi drwy adrannau 2 a 3 (gan gynnwys adran 4 os yw'n berthnasol) ac wedi ei gategoreiddio drwy adran 6.

49. Ystyr "ardal atodol" yw ystafelloedd, adeiladau allanol, garejis, meysydd parcio, iardiau, gerddi neu ardaloedd eraill a ddarperir at ddefnydd, er budd neu er mwynhad preswylwyr yr adeilad hwnnw.

50. Mae is-adran (3) yn darparu, os yw ardal atodol (a) hefyd at ddefnydd, er budd neu er mwynhad personau eraill nad ydynt yn breswylwyr, neu (b) at ddefnydd, er budd neu er mwynhad preswylwyr uned breswyl neu unedau preswyl penodol yn yr adeilad yn unig, mae'n dal i fod yn ardal atodol o dan is-adran (2).

51. O ganlyniad i'r adran hon, mae llawer o'r dyletswyddau yn y Ddeddf (er enghraifft, y ddyletswydd ar y prif berson atebol o dan adran 29 i sicrhau yr asesir risgiau diogelwch tân) yn gymwys mewn perthynas â'r adeilad sydd wedi ei nodi drwy adrannau 2 a 3 ac sydd wedi ei gategoreiddio drwy adran 6, ac unrhyw ardaloedd atodol sy'n ymwneud â'r adeilad hwnnw.

Personau atebol, prif bersonau atebol a rhannau cyffredin

Adran 8 – Ystyr "person atebol"

52. Mae adran 8 yn nodi pwy sy'n "person atebol" ar gyfer adeilad rheoleiddiedig. Mae'r rhain yn bersonau y gosodir dyletswyddau statudol allweddol arnynt o dan y Ddeddf. Er enghraifft, mae gan bersonau atebol ddyletswyddau i reoli risgiau diogelwch tân (o dan adran 33) mewn perthynas â'r rhannau o'r adeilad y maent yn gyfrifol amdanynt. Caiff person atebol, er enghraifft, fod yn unigolyn, yn gwmni neu'n gorff cyhoeddus.

43. Category 2 buildings are at least 11 metres in height or have at least 5 storeys but are less than 18 metres in height and have fewer than 7 storeys i.e. they are not a category 1 building.

44. Category 3 buildings are less than 11 metres in height and have fewer than 5 storeys.

45. Subsection (5) defines when a mezzanine floor is to be regarded as a "storey" in respect of regulated buildings.

46. Subsection (6) provides the Welsh Ministers with a power to make regulations to supplement this section. For example, regulations may set out details of how to measure the height of a building or provide for how storeys are to be counted.

47. Regulations may also be used to make provision for when buildings of a particular description should be treated as falling into a different category than they otherwise would. This might be due to evidence identifying such buildings being at higher or lower risk than other buildings within the category they would otherwise fall into.

Section 7 - Inclusion of ancillary areas in references to regulated buildings

48. Section 7 provides that in the remainder of the Act (i.e., not in sections 2 to 7 or Schedule 1), any reference to a regulated building includes any "ancillary area" that is not actually part of the "building" that has been identified via sections 2 and 3 (including section 4 if relevant) and categorised via section 6.

49. "Ancillary area" means rooms, outbuildings, garages, car parks, yards, gardens or other areas, that are provided for the use, benefit or enjoyment of residents of the building.

50. Subsection (3) provides that if an ancillary area is (a) also for the use, benefit or enjoyment of other persons who are not residents, or (b) is only for the use, benefit or enjoyment of the residents of a particular residential unit or units in the building, it is still an ancillary area under subsection (2).

51. As a result of this section, many of the duties in the Act (for example, the duty on the principal accountable person under section 29 to ensure the assessment of fire safety risks) apply in relation to both the building that has been identified via sections 2 and 3 and categorised via section 6, and any ancillary areas relating to that building.

Accountable persons, principal accountable persons and common parts

Section 8 - Meaning of "accountable person"

52. Section 8 sets out who is an "accountable person" for a regulated building. These are persons on whom key statutory duties are placed under the Act. For example, accountable persons have duties to manage fire safety risks (under section 33) in relation to the parts of the building for which they are responsible. An accountable person may, for example, be an individual, a company or a public body.

53. Mae is-adran (2) yn darparu bod person yn berson atebol am adeilad rheoleiddiedig—
    a. os yw'n dal ystad gyfreithiol (e.e. rhydd-ddaliad neu lesddaliad) mewn meddiant yn rhannau cyffredin yr adeilad neu unrhyw ran ohonynt, neu
    b. os nad yw'n dal ystad gyfreithiol mewn unrhyw ran o'r adeilad ond eu bod o dan "rhwymedigaeth atgyweirio berthnasol" mewn perthynas â rhannau cyffredin yr adeilad neu unrhyw ran ohonynt.

54. Wrth ystyried a yw person yn dal ystad gyfreithiol mewn meddiant yn rhannau cyffredin yr adeilad neu unrhyw ran ohonynt, nid yw "mewn meddiant" yn cynnwys cael rhenti ac elw na'r hawl i gael rhenti ac elw (gweler adran 14).

55. Diffinnir "rhannau cyffredin" mewn perthynas ag adeilad rheoleiddiedig yn adran 13. Yn fras, y "rhannau cyffredin" yw strwythur a thu allan yr adeilad (ac eithrio fel y crybwyllir yn adran 13(2)(a) a rhannau eraill o'r adeilad a ddarperir at ddefnydd, er budd neu er mwynhad preswylwyr mwy nag un uned breswyl.

56. Diffinnir "rhwymedigaeth atgyweirio berthnasol" mewn perthynas â rhan o adeilad rheoleiddiedig yn adran 14, fel gofyniad o dan les neu yn rhinwedd deddfiad i atgyweirio neu gynnal a chadw'r rhan honno.

57. Mae is-adran (2)(a) yn ddarostyngedig i is-adran (3). Mae hyn yn darparu nad yw person, a ddisgrifir fel "perchennog yr ystad", sy'n dal ystad gyfreithiol mewn meddiant yn rhannau cyffredin yr adeilad neu unrhyw ran ohonynt yn berson atebol o dan is-adran (2)(a) os yw'r naill neu'r llall o'r amgylchiadau yn is-adran (3)(a) neu (b) yn gymwys. Er enghraifft, pan fo holl rwymedigaethau atgyweirio perchennog yr ystad mewn perthynas â'r rhannau cyffredin perthnasol yn swyddogaethau cwmni RTM. Diffinnir "cwmni RTM" yn adran 14.

58. Mae is-adrannau (4) a (5) yn gymwys pan fo tenant yn dal ystad gyfreithiol mewn meddiant yn rhannau cyffredin yr adeilad neu unrhyw ran ohonynt (y cyfeirir atynt fel y "rhannau cyffredin perthnasol") a bod landlord o dan y les o dan rwymedigaeth atgyweirio berthnasol mewn perthynas â'r rhannau cyffredin hynny. Gallai hyn godi pan fo, er enghraifft, y rhannau cyffredin perthnasol yn cael eu rhoi mewn demeis o dan les neu gadwyn o lesoedd.

59. Effaith is-adrannau (4) a (5) yw, yn y sefyllfaoedd hynny, mai'r landlord, neu'r uwchlandlord, sydd o dan y rhwymedigaeth atgyweirio perthnasol mewn perthynas â'r rhannau cyffredin perthnasol sy'n cael ei drin fel petai'n dal yr ystad gyfreithiol mewn meddiant ynddynt at y diben o benderfynu pwy yw'r person atebol (yn hytrach na'r tenant sy'n dal yr ystad gyfreithiol mewn meddiant yn y rhannau cyffredin hynny).

60. Mae is-adran (6) yn darparu, pan fo adeilad ar dir cyfunddaliad, y gymdeithas gyfunddaliad fydd y person atebol ar gyfer yr adeilad.

53. Subsection (2) provides that a person is an accountable person for a regulated building if—
    a. they hold a legal estate (e.g. freehold or leasehold) in possession in the common parts of the building or any part of them, or
    b. they do not hold a legal estate in any part of the building, but they are under a "relevant repairing obligation" in relation to the common parts of the building or any part of them.

54. When considering whether a person holds a legal estate in possession in the common parts of the building or any part of them, "in possession" does not include the receipt of rents and profits or the right to receive rents and profits (see section 14).

55. "Common parts" in relation to a regulated building is defined in section 13. Broadly speaking, the "common parts" are the structure and exterior of the building (except as mentioned in section 13(2)(a)) and other parts of the building that are provided for the use, benefit or enjoyment of the residents of more than one residential unit.

56. "Relevant repairing obligation" in relation to a part of a regulated building is defined in section 14, as a requirement under a lease or by virtue of an enactment to repair or maintain that part.

57. Subsection (2)(a) is subject to subsection (3). This provides that a person, described as the "estate owner", who holds a legal estate in possession in the common parts of the building or any part of them is not an accountable person under subsection (2)(a) if either of the circumstances in subsection (3)(a) or (b) apply. For example, where all of the repairing obligations of the estate owner in relation to the relevant common parts are functions of an RTM company. "RTM company" is defined in section 14.

58. Subsections (4) and (5) apply when a tenant holds a legal estate in possession in the common parts of the building or any part of them (referred to as the "relevant common parts") and a landlord under the lease is under a relevant repairing obligation in relation to those common parts. This could arise where, for example, the relevant common parts are demised under a lease or a chain of leases.

59. The effect of subsections (4) and (5) are that, in those scenarios, it is the landlord, or superior landlord, that is under the relevant repairing obligation in relation to the relevant common parts that is treated as holding the legal estate in possession in them for the purpose of determining who is the accountable person (instead of the tenant that holds the legal estate in possession in those common parts).

60. Subsection (6) provides that where a building is on commonhold land, the commonhold association will be the accountable person for the building.

Adran 9 – Ystyr "prif berson atebol"

61. Mae'r diffiniad o brif berson atebol yn sicrhau, mewn adeiladau a chanddynt fwy nag un person atebol, bod person atebol arweiniol, y prif berson atebol, y mae dyletswyddau penodol o dan y gyfundrefn yn cael eu gosod arno. Mae'n ofynnol i'r prif berson atebol gydymffurfio â dyletswyddau penodol sy'n gymwys i'r adeilad rheoleiddiedig cyfan, neu mewn perthynas ag ef. Mae'r dyletswyddau hyn yn cynnwys, er enghraifft, gwneud cais i gofrestru adeiladau categori 1 a chategori 2, sicrhau bod asesiad risg tân yn cael ei gynnal ar gyfer adeilad rheoleiddiedig a llunio'r adroddiad achos diogelwch ar gyfer adeiladau categori 1.

62. Mewn adeilad ag iddo un person atebol yn unig, ef yw'r prif berson atebol.

63. Pan fo dau neu ragor o bersonau atebol ar gyfer yr adeilad, mae is-adran (3) yn darparu mai'r prif berson atebol ar gyfer adeilad a chanddo fwy nag un person atebol yw'r person atebol sydd—
    a. yn dal ystad gyfreithiol mewn meddiant yn strwythur allanol yr adeilad, neu
    b. o fewn adran 8(2)(b) oherwydd rhwymedigaeth atgyweirio berthnasol mewn perthynas â strwythur allanol yr adeilad.

64. Diffinnir "strwythur allanol" yn is-adran (4) fel ei fod yn golygu sylfeini, waliau allanol a tho yr adeilad. Mae hyn yn ddarostyngedig i'r eithriadau a grybwyllir yn is-adran (4)(a) a (b).

65. Mae is-adran (3) yn ddarostyngedig i unrhyw benderfyniadau a wneir gan yr awdurdod diogelwch adeiladau neu'r tribiwnlys eiddo preswyl ynghylch pwy yw'r prif berson atebol o dan adrannau 10 ac 11.

Adran 10 – Prif berson atebol: penderfyniad gan awdurdod diogelwch adeiladau

66. Mae'r adran hon yn galluogi'r awdurdod diogelwch adeiladau i benderfynu pwy yw'r prif berson atebol ar gyfer adeilad rheoleiddiedig os oes mwy nag un person atebol sy'n bodloni'r diffiniad o brif berson atebol yn adran 9(3), a bod gwahanol bersonau atebol yn dod o fewn adran 9(3) mewn cysylltiad â gwahanol rannau o strwythur allanol yr adeilad. Caiff y personau atebol sy'n dod o fewn is-adran (1)(b) o adran 10 wneud cais ar y cyd i'r awdurdod diogelwch adeiladau am benderfyniad ynghylch pa un ohonynt yw'r prif berson atebol ar gyfer yr adeilad (is-adran (2)). Er enghraifft, mae Person A yn berson atebol sy'n dod o fewn adran 9(3) oherwydd ei fod yn dal ystad gyfreithiol mewn meddiant yn sylfeini'r adeilad. Mae Person B yn berson atebol sy'n dod o fewn adran 9(3) oherwydd ei fod yn dal ystad gyfreithiol mewn meddiant yn waliau allanol a tho'r adeilad. O dan is-adran (2), caiff Person A a Pherson B wneud cais ar y cyd i'r awdurdod diogelwch adeiladau am benderfyniad ynghylch pa un ohonynt yw'r prif berson atebol ar gyfer yr adeilad.

67. Fodd bynnag, o dan is-adran (4), ni ellir gwneud cais i'r awdurdod diogelwch adeiladau os bydd cais i dribiwnlys eiddo preswyl am benderfyniad o dan adran 11(1)(b) ynghylch pwy yw'r prif berson atebol ar gyfer yr adeilad—
    a. wedi ei benderfynu'n derfynol, neu
    b. wedi ei wneud ond heb ei benderfynu'n derfynol na'i dynnu'n ôl.

Section 9 - Meaning of "principal accountable person"

61. The definition of a principal accountable person ensures that in buildings with more than one accountable person, there is a lead accountable person, the principal accountable person, on whom certain duties under the regime are placed. The principal accountable person is required to comply with certain duties that apply to, or in relation to, the entire regulated building. These duties include, for example, applying for registration of category 1 and category 2 buildings, ensuring a fire risk assessment is undertaken for a regulated building and preparing the safety case report for category 1 buildings.

62. In a building with only one accountable person, they are the principal accountable person.

63. Where there are two or more accountable persons for the building, subsection (3) provides that the principal accountable person for a building with more than one accountable person is the accountable person who—
    a. holds a legal estate in possession in the external structure of the building, or
    b. falls within section 8(2)(b) because of a relevant repairing obligation in relation to the external structure of the building.

64. "External structure" is defined in subsection (4) as meaning the building's foundations, external walls and roof. This is subject to the exceptions mentioned in subsection (4)(a) and (b).

65. Subsection (3) is subject to any determinations made by the building safety authority or residential property tribunal as to who is the principal accountable person under sections 10 and 11.

Section 10 - Principal accountable person: determination by building safety authority

66. This section enables the building safety authority to determine who the principal accountable person is for a regulated building if there is more than one accountable person that meets the definition of principal accountable person in section 9(3), and different accountable persons fall within section 9(3) in respect of different parts of the external structure of the building. The accountable persons that fall within subsection (1)(b) of section 10 may jointly apply to the building safety authority for a determination as to which one of them is the principal accountable person for the building (subsection (2)). As an example, Person A is an accountable person that falls within section 9(3) because it holds a legal estate in possession in the foundations of the building. Person B is an accountable person that falls within section 9(3) because it holds a legal estate in possession in the external walls and roof of the building. Under subsection (2), Person A and Person B may jointly apply to the building safety authority for a determination as to which one of them is the principal accountable person for the building.

67. However, under subsection (4), an application to the building safety authority cannot be made if an application to a residential property tribunal for a determination under section 11(1)(b) as to who is the principal accountable person for the building—
    a. has been finally determined, or
    b. has been made but not finally determined or withdrawn.

68. Mae is-adran (3) yn galluogi Gweinidogion Cymru i wneud rheoliadau ynghylch ceisiadau o dan is-adran (2) (a materion cysylltiedig).

69. Mae is-adran (4) yn gwneud darpariaeth ar gyfer amgylchiadau nad yw'r adran hon yn gymwys ynddynt.

Adran 11 – Penderfyniadau gan dribiwnlys eiddo preswyl

70. Diben yr adran hon yw galluogi ceisiadau i gael eu gwneud i dribiwnlys eiddo preswyl am benderfyniadau am faterion amrywiol.

71. Mae is-adran (1) yn galluogi person a grybwyllir yn is-adran (3) (y cyfeirir ato yn yr adran hon fel "person a chanddo fuddiant") i wneud cais i'r tribiwnlys am benderfyniad ynghylch—
    a. y person neu'r personau sy'n bersonau atebol ar gyfer yr adeilad rheoleiddiedig;
    b. y person sy'n brif berson atebol ar gyfer yr adeilad;
    c. y rhan o'r adeilad y mae unrhyw berson atebol ar gyfer yr adeilad yn gyfrifol amdani.

72. Os gwneir cais o dan is-adran (1)(b) am benderfyniad ynghylch pwy yw'r prif berson atebol ar gyfer yr adeilad ac yr ymddengys i'r tribiwnlys fod mwy nag un person atebol yn dod o fewn adran 9(3), mae is-adran (2) yn darparu mai'r prif berson atebol yw unrhyw un o'r personau atebol hynny y mae'r tribiwnlys yn ei ystyried yn briodol.

73. O dan is-adran (4), gall unrhyw berson wneud cais i'r tribiwnlys am benderfyniad nad yw'r person yn berson atebol ar gyfer yr adeilad, neu nad y person yw'r prif berson atebol ar gyfer yr adeilad.

Adran 12 – Cymhwyso adrannau 9 ac 11 mewn achosion o gydberchenogaeth etc.

74. Mae'r adran hon yn gwneud darpariaeth ar gyfer sefyllfaoedd pan fo dau neu ragor o bersonau yn bodloni'r diffiniad o "person atebol" oherwydd eu bod yn dal ar y cyd ystad gyfreithiol mewn meddiant yn yr un rhannau cyffredin, oherwydd eu bod yn ddarostyngedig ar y cyd i ofyniad o dan les i atgyweirio neu gynnal a chadw'r un rhannau cyffredin, neu oherwydd eu bod yn ddarostyngedig ar y cyd i ofyniad yn rhinwedd deddfiad i atgyweirio neu gynnal a chadw'r un rhannau cyffredin. Mewn achosion o'r fath, maent i'w trin fel un person atebol at ddibenion:
    - penderfynu ar y prif berson atebol o dan adran 9(2) a (3; a
    - penderfynu ar gyfrifoldeb dros rannau o'r adeilad o dan adran 11(1)(c).

Adran 13 – Ystyr "rhannau cyffredin"

75. Mae'r adran hon yn diffinio "rhannau cyffredin" mewn perthynas ag adeiladau rheoleiddiedig at ddibenion y Ddeddf.

76. Ystyr "rhannau cyffredin" adeilad rheoleiddiedig yw "strwythur a thu allan" yr adeilad, yn ddarostyngedig i'r eithriadau yn is-adran (2)(a). Mae is-adran (4) yn nodi'r hyn a olygir gan "strwythur a thu allan" adeilad. Mae cyfeiriadau at ran o adeilad yn adran 13(4) yn cynnwys unrhyw osodiad sy'n ffurfio rhan ohono, e.e. system synhwyro tân/larwm tân integredig neu system chwistrellu integredig.

68. Subsection (3) enables the Welsh Ministers to make regulations about applications under subsection (2) (and related matters).

69. Subsection (4) makes provision for circumstances in which this section does not apply.

Section 11 - Determinations by residential property tribunal

70. The purpose of this section is to enable applications to be made to a residential property tribunal for determinations about various matters.

71. Subsection (1) enables a person mentioned in subsection (3) (referred to in this section as an "interested person") to apply to the tribunal for a determination of—
    a. the person or persons who are accountable persons for the regulated building;
    b. the person who is the principal accountable person for the building;
    c. the part of the building for which any accountable person for the building is responsible.

72. If an application is made under subsection (1)(b) for a determination of who is the principal accountable person for the building and it appears to the tribunal that more than one accountable person falls within section 9(3), subsection (2) provides that the principal accountable person is such one of those accountable persons as the tribunal considers appropriate.

73. Under subsection (4), any person can make an application to the tribunal for a determination that the person is not an accountable person for the building, or that the person is not the principal accountable person for the building.

Section 12 - Application of sections 9 and 11 in cases of joint ownership etc.

74. This section makes provision for situations where two or more persons meet the definition of "accountable person" because they jointly hold a legal estate in possession of the same common parts, because they are jointly subject to a requirement under a lease to repair or maintain the same common parts or because they are jointly subject to a requirement by virtue of an enactment to repair or maintain the same common parts. In such cases, they are to be treated as one accountable person for the purposes of:
    - determination of the principal accountable person under section 9(2) and (3); and
    - determination of responsibility for parts of the building under section 11(1)(c).

Section 13 - Meaning of "common parts"

75. This section defines "common parts" in relation to regulated buildings for the purposes of the Act.

76. The "common parts" of a regulated building mean the "structure and exterior" of the building, subject to the exceptions in subsection (2)(a). Subsection (4) sets out what is meant by the "structure and exterior" of a building. References to a part of a building in section 13(4) include any fixture that forms part of it, e.g. an integrated fire detection/alarm system or an integrated fire sprinkler system.

77. Mae is-adran (2)(b) yn darparu bod "rhannau cyffredin" hefyd yn golygu unrhyw ran arall o'r adeilad (nad yw'n rhan o strwythur neu du allan) a ddarperir at ddefnydd, er budd neu er mwynhad preswylwyr mwy nag un uned breswyl. Mae enghreifftiau o rannau o'r adeilad sy'n "rhannau cyffredin" o dan is-adran (2)(b) yn cynnwys rhannau heb eu hamgáu o'r adeilad rheoleiddiedig megis lawntiau, gerddi neu feysydd parcio ar yr wyneb (nad ydynt yn rhan o'r strwythur a'r tu allan) a ddarperir at ddefnydd, er bydd neu er mwynhau preswylwyr mwy nag un uned breswyl.

78. Mae is-adran (3) yn darparu pŵer i Weinidogion Cymru wneud rheoliadau i ddarparu, mewn amgylchiadau penodedig, bod rhan o strwythur a thu allan adeilad yn ffurfio rhan o rannau cyffredin yr adeilad hyd yn oed os y caiff ei heithrio rhag bod yn rhan gyffredin o dan is-adran (2)(a)(i).

Adran 14 – Diffiniadau eraill

79. Mae'r adran hon yn nodi ystyr termau eraill a defnyddir yn y Bennod hon.

Adran 15 – Pŵer i wneud darpariaeth bellach at ddibenion adrannau 8 a 9

80. Mae'r adran hon yn rhoi pŵer i Weinidogion Cymru wneud darpariaeth bellach, drwy reoliadau, at ddibenion adrannau 8 a 9.

81. Mae is-adran (2) yn rhoi enghreifftiau o'r ddarpariaeth y caniateir ei gwneud mewn rheoliadau o'r fath.

Cyfrifoldeb personau atebol ar gyfer rhannau o adeiladau rheoleiddiedig

Adran 16 – Rhan o adeilad rheoleiddiedig y mae person atebol yn gyfrifol amdani

82. Mae llawer o'r dyletswyddau a osodir ar berson atebol gan y Ddeddf yn cael eu diffinio drwy gyfeirio at y rhan o'r adeilad rheoleiddiedig y mae'r person atebol yn gyfrifol amdani.

83. Mae'r adran hon yn darparu bod i gyfeiriadau yn y Ddeddf at y rhan o'r adeilad y mae person atebol yn gyfrifol amdani yr ystyr a roddir gan reoliadau a wneir gan Weinidogion Cymru.

Cyffredinol

Adran 17 – Pwerau i ddiwygio'r Bennod hon

84. Mae'r adran hon yn darparu y caiff Gweinidogion Cymru, drwy reoliadau, ddiwygio adrannau 2, 3, 4, 6, 7, 8, 9, 13 a 14 ac Atodlen 1. Gosodir cyfyngiadau ar y pŵer i ddiwygio adrannau 2, 3, a 6 ac Atodlen 1 (gweler is-adrannau (1)(a), (b), (c) ac (e)).

PENNOD 3 – COFRESTRU ADEILADAU CATEGORI 1 AC ADEILADAU CATEGORI 2

Cofrestrau

Adran 18 – Cofrestrau o adeiladau categori 1 ac adeiladau categori 2

85. Mae'r adran hon yn ei gwneud yn ofynnol i awdurdod diogelwch adeiladau gadw cofrestr o adeiladau categori 1 a chategori 2 y mae'n awdurdod diogelwch adeiladau ar eu cyfer (gweler adran 122 am ystyr "awdurdod diogelwch adeiladau").

86. Mae'r wybodaeth a'r dogfennau y mae rhaid ei chynnwys neu eu cynnwys mewn cofnod mewn cofrestr wedi ei rhestru neu eu rhestru yn is-adran (2).

77. Subsection (2)(b) provides that "common parts" also means any other part of the building (that is not a part of the structure or exterior) that is provided for the use, benefit or enjoyment of the residents of more than one residential unit. Examples of parts of the building that are "common parts" under subsection (2)(b) include unenclosed parts of the regulated building such as lawns, gardens or surface car parks (that are not part of the structure and exterior) that are provided for the use, benefit or enjoyment of the residents of more than one residential unit.

78. Subsection (3) provides a power for the Welsh Ministers to make regulations to provide that, in specified circumstances, a part of the structure and exterior of a building forms part of the common parts of the building even if itis excluded from being a common part under subsection (2)(a)(i).

Section 14 - Other definitions

79. This section sets out the definitions of other terms used in this Chapter.

Section 15 - Power to make further provision for the purposes of sections 8 and 9

80. This section gives the Welsh Ministers a power to make further provision, by regulations, for the purposes of sections 8 and 9.

81. Subsection (2) gives examples of the provision that may be made in such regulations.

Responsibility of accountable persons for parts of regulated buildings
Section 16 - Part of regulated building for which accountable person is responsible

82. Many of the duties imposed on an accountable person by the Act are defined by reference to the part of the regulated building for which the accountable person is responsible.

83. This section provides that references in the Act to the part of the building for which an accountable person is responsible have the meaning given by regulations made by the Welsh Ministers.

General
Section 17 - Powers to amend this Chapter

84. This section provides that the Welsh Ministers may by regulations amend sections 2, 3, 4, 6, 7, 8, 9, 13 and 14 and Schedule 1. Limitations are placed on the power to amend sections 2, 3, and 6 and Schedule 1 (see subsection (1)(a), (b), (c) and (e)).

CHAPTER 3 - REGISTRATION OF CATEGORY 1 BUILDINGS AND CATEGORY 2 BUILDINGS
Registers
Section 18 - Registers of category 1 buildings and category 2 buildings

85. This section requires a building safety authority to keep a register of category 1 and category 2 buildings for which it is the building safety authority (see section 122 for the meaning of "building safety authority").

86. The information and documents that must be included in an entry on a register is listed in subsection (2).

87. Mae cael yr wybodaeth hon ar gofrestr yn golygu bod awdurdod diogelwch adeiladau yn cadw cofnod o bwy yw'r prif berson atebol o dan y Ddeddf ar gyfer adeiladau categori 1 a 2, ynghyd â gwybodaeth bwysig arall am yr adeilad fel ei gyfeiriad a'i uchder. Mae adran 9 yn nodi ystyr "prif berson atebol".

88. Mae is-adran (3) yn darparu pŵer i Weinidogion Cymru wneud rheoliadau ynghylch awdurdod diogelwch adeiladau yn cyhoeddi ei gofrestr, neu wybodaeth neu ddogfennau penodol a gedwir ar ei gofrestr.

Gofyniad i gofrestru a'r weithdrefn gofrestru

Adran 19 – Gofyniad i gofrestru adeiladau categori 1 ac adeiladau categori 2

89. Diben yr adran hon yw sicrhau bod adeiladau categori 1 a chategori 2 yn cael eu cofrestru gyda'r awdurdod diogelwch adeiladau cyn iddynt fod wedi eu meddiannu. Rhoddir ystyr "wedi ei feddiannu" yn adran 136.

90. Mae'r prif berson atebol ar gyfer adeilad categori 1 neu gategori 2 yn cyflawni trosedd os yw'r adeilad wedi ei feddiannu ond heb ei gofrestru. Gellir rhoi'r drosedd ar brawf y naill ffordd neu'r llall. Mae'n amddiffyniad i brofi bod gan y prif berson atebol esgus rhesymol dros yr adeilad yn cael ei feddiannu ond nad yw wedi ei gofrestru. Gweler hefyd adran 110 (hysbysiadau cosb benodedig).

Adran 20 – Gweithdrefn gofrestru

91. Mae'r adran hon yn nodi'r weithdrefn ar gyfer cofrestru adeilad categori 1 neu 2. Rhaid i'r prif berson atebol wneud cais i gofrestru'r adeilad sy'n cydymffurfio â'r gofynion a nodir mewn rheoliadau a wneir gan Weinidogion Cymru o dan is-adran (3). Os nad yw'r prif berson atebol yn talu unrhyw ffi ymgeisio sy'n ofynnol gan reoliadau a wneir o dan adran 125, rhaid i'r awdurdod diogelwch adeiladau beidio â chofrestru'r adeilad, hyd yn oed os yw'r cais yn cydymffurfio â'r gofynion a nodir mewn rheoliadau a wneir gan Weinidogion Cymru o dan is-adran (3).

Hysbysu am newidiadau a diwygiadau i gofrestr

Adran 21 – Dyletswydd i hysbysu am newidiadau

92. Bwriad yr adran hon yw sicrhau bod yr wybodaeth a gedwir ar y gofrestr yn cael ei diweddaru.

93. Mae is-adran (1) yn gosod dyletswydd ar brif berson atebol adeilad cofrestredig i hysbysu'r awdurdod diogelwch adeiladau os oes unrhyw newidiadau i gyfeiriad yr adeilad, ei uchder, nifer y lloriau neu newidiadau i enw, cyfeiriad neu rif ffôn y prif berson atebol. Gellir pennu newidiadau eraill y mae rhaid eu hysbysu i'r awdurdod diogelwch adeiladau hefyd mewn rheoliadau a wneir gan Weinidogion Cymru. Rhaid i'r prif berson atebol ar gyfer adeilad categori 1 neu gategori 2 roi gwybod i'r awdurdod diogelwch adeiladau cyn diwedd 14 o ddiwrnodau gan ddechrau pan fo'n gwybod am y newid am y tro cyntaf, neu y dylai wybod yn rhesymol am y newid.

94. Mae is-adran (2) yn darparu ei bod yn drosedd methu â chydymffurfio ag is-adran (1), heb esgus rhesymol.

87. Having this information on a register mean that a building safety authority holds a record of who is the principal accountable person under the Act for category 1 and 2 buildings, along with other important information about the building such as its address and height. Section 9 sets out the meaning of "principal accountable person".

88. Subsection (3) provides a power for the Welsh Ministers to make regulations about the publication by a building safety authority of its register, or of certain information or documents held on its register.

Requirement to register and registration procedure

Section 19 - Requirement to register category 1 buildings and category 2 buildings

89. The purpose of this section is to ensure that category 1 and category 2 buildings are registered with the building safety authority before they are occupied. The meaning of "occupied" is given in section 136.

90. The principal accountable person for a category 1 or category 2 building commits an offence if the building is occupied but not registered. The offence is triable either way. It is a defence to prove that the principal accountable person had a reasonable excuse for the building being occupied but not registered. See also section 110 (fixed penalty notices).

Section 20 - Registration procedure

91. This section sets out the procedure for registering a category 1 or 2 building. The principal accountable person must make an application to register the building that complies with the requirements set out in regulations made by the Welsh Ministers under subsection (3). If the principal accountable person does not pay any application fee required by regulations made under section 125, the building safety authority must not register the building, even if the application complies with the requirements set out in regulations made by the Welsh Ministers under subsection (3).

Notification of changes and revision of register

Section 21 - Duty to notify changes

92. This section is intended to ensure that information held on the register is kept up to date.

93. Subsection (1) places a duty on the principal accountable person of a registered building to notify the building safety authority if there are any changes to the address of the building, its height, number of storeys or changes to the name, address or telephone number of the principal accountable person. Other changes that must also be notified to the building safety authority can be specified in regulations made by the Welsh Ministers. The principal accountable person for a category 1 or category 2 building must inform the building safety authority before the end of 14 days beginning with when it first knows, or ought reasonably to know, of the change.

94. Subsection (2) provides that it is an offence for failing to comply with subsection (1), without reasonable excuse.

95. Os ceir person yn euog o drosedd o dan is-adran (2) mewn llys ynadon, caiff y llys osod dirwy neu gyfnod o garchar, neu'r ddau. Nid oes terfyn uchaf ar swm y ddirwy. Uchafswm y cyfnod o garchar yw 12 mis (sef y "terfyn cymwys" a nodir yn adran 224(1A) (b) o'r Cod Dedfrydu, a gynhwysir yn Neddf Dedfrydu 2020 (p. 17)).

96. Os ceir person yn euog o drosedd o dan is-adran (2) yn llys y Goron, caiff y llys osod dirwy neu gyfnod o garchar, neu'r ddau. Nid oes terfyn uchaf ar swm y ddirwy. Uchafswm y cyfnod o garchar yw 2 flynedd.

Adran 22 – Diwygio cofrestr yn dilyn hysbysiad am newid

97. Mae'r adran hon yn disgrifio'r hyn y mae rhaid i'r awdurdod diogelwch adeiladau ei wneud pan fydd prif berson atebol adeilad cofrestredig categori 1 neu gategori 2 yn hysbysu'r awdurdod diogelwch adeiladau am newid i gyfeiriad yr adeilad, ei uchder, nifer y lloriau neu newid yn enw, cyfeiriad neu rif ffôn y prif berson atebol o dan adran 21(1)(a). Mae hefyd yn nodi'r hyn y mae rhaid i'r awdurdod ei wneud os caiff ei hysbysu gan y prif berson atebol am unrhyw newid arall o dan adran 21(1)(b).

98. Rhaid i'r awdurdod diogelwch adeiladau benderfynu a ddylid diwygio cofnod yr adeilad yn y gofrestr a rhaid iddo roi gwybod i'r prif berson atebol o'i benderfyniad o fewn 21 o ddiwrnodau gan ddechrau â'r diwrnod drannoeth y diwrnod yr hysbysir yr awdurdod am y newid (is-adrannau (2) a (3)).

99. Mae is-adrannau (4) a (5) yn darparu ar gyfer yr hyn y mae rhaid ei gynnwys yn yr hysbysiad a roddir o dan is-adran (3), yn ddibynnol ar a yw'r cofnod yn cael ei ddiwygio ai peidio. Os yw'r awdurdod yn penderfynu peidio â diwygio'r cofnod ar gyfer yr adeilad yn y gofrestr, rhaid i'r hysbysiad gynnwys gwybodaeth am yr hawl i gael adolygiad o dan adran 64.

Adran 23 – Diwygio cofrestr heb hysbysiad

100. Mae'r adran hon yn gymwys pan ddaw'r awdurdod diogelwch adeiladau yn ymwybodol, ac eithrio cael ei hysbysu gan y prif berson atebol o dan adran 21, bod gwybodaeth neu ddogfen, a gynhwysir mewn cofnod ar gyfer adeilad yn ei gofrestr yn anghywir.

101. Rhaid i'r awdurdod diogelwch adeiladau benderfynu a ddylid diwygio cofnod yr adeilad yn y gofrestr ai peidio (is-adran (2)).

102. Os yw'r awdurdod diogelwch adeiladau yn penderfynu diwygio'r gofrestr, rhaid iddo hysbysu'r prif berson atebol o fewn 21 o ddiwrnodau, gan ddechrau â'r diwrnod drannoeth y diwrnod y daeth yn ymwybodol o'r anghywirdeb (is-adran (3)).

103. Mae is-adran (4) yn darparu ar gyfer yr hyn y mae rhaid ei gynnwys mewn hysbysiad a roddir o dan is-adran (3), gan gynnwys y dyddiad y bydd yr adolygiad yn cymryd effaith. Os yw'r awdurdod yn penderfynu diwygio'r cofnod ar gyfer yr adeilad yn y gofrestr, gall y prif berson atebol ofyn am adolygiad o'r penderfyniad hwnnw o dan adran 64.

104. Mae is-adran (5) yn gwneud darpariaeth ynglŷn â'r amgylchiadau pan na all penderfyniad i ddiwygio'r gofrestr o dan is-adran (2) gymryd effaith, er mwyn caniatáu ar gyfer unrhyw adolygiad o dan adran 64 neu unrhyw apêl o dan adran 65.

95. If a person is found guilty of an offence under subsection (2) in a magistrates' court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 12 months (which is the "applicable limit" set out in section 224(1A) (b) of the Sentencing Code, contained in the Sentencing Act 2020 (c. 17)).

96. If a person is found guilty of an offence under subsection (2) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years.

Section 22 - Revision of register following notification of change

97. This section describes what the building safety authority must do when a principal accountable person of a registered category 1 or category 2 building notifies the building safety authority of a change to the address of the building, its height, number of storeys or a change in the name, address or telephone number of the principal accountable person under section 21(1)(a). It also sets out what the authority must do if it is notified by the principal accountable person of any other change under section 21(1)(b).

98. The building safety authority must decide whether to revise the building's entry in the register and must inform the principal accountable person of its decision within 21 days beginning with the day after the day on which the authority is notified of the change (subsections (2) and (3)).

99. Subsections (4) and (5) provide for what must be included in the notice given under subsection (3), depending on whether the entry is revised or not. If the authority decides not to revise the entry for the building in the register, the notice must include information about the right of review under section 64.

Section 23 - Revision of register without notification

100. This section applies where the building safety authority becomes aware, other than being notified by the principal accountable person under section 21, that information or a document included in an entry for a building in its register is inaccurate.

101. The building safety authority must decide whether or not to revise the building's entry in the register (subsection (2)).

102. If the building safety authority decides to revise the register, it must notify the principal accountable person within 21 days, beginning with the day after the day on which it became aware of the inaccuracy (subsection (3)).

103. Subsection (4) provides for what must be included in a notice given under subsection (3), including the date on which the revision will take effect. If the authority decides to revise the entry for the building in the register, the principal accountable person can request a review of that decision under section 64.

104. Subsection (5) makes provision about the circumstances in which a decision to revise the register under subsection (2) cannot take effect, to allow for any review under section 64 or any appeal under section 65.

105. Pan fo is-adran (5) yn peidio â rhwystro diwygiad i'r gofrestr rhag cymryd effaith, mae is-adran (6) yn darparu bod rhaid i'r awdurdod diogelwch adeiladau, os yw'r dyddiad a bennir o dan is-adran (4)(b) eisoes wedi mynd heibio, bennu dyddiad newydd i'r diwygiad gymryd effaith oni bai bod adolygiad neu apêl wedi penderfynu'r dyddiad.

Declarasiwn ynghylch cywirdeb gwybodaeth a dogfennau yn y gofrestr
Adran 24 – Dyletswydd i roi declarasiwn ynghylch cywirdeb gwybodaeth a dogfennau sydd wedi eu cynnwys yn y gofrestr

106. Diben yr adran hon yw ei gwneud yn ofynnol i'r prif berson atebol gynnal adolygiad cyfnodol o gywirdeb gwybodaeth a dogfennau a gynhwysir yng nghofnod adeilad yn y gofrestr.

107. Mae is-adrannau (1) a (2) yn darparu bod rhaid i'r prif berson atebol roi "declarasiwn perthnasol" i'r awdurdod diogelwch adeiladau, ynghylch cywirdeb yr wybodaeth a'r dogfennau a gynhwysir yn y cofnod ar gyfer yr adeilad yn y gofrestr.

108. Rhaid rhoi "declarasiwn perthnasol" o fewn y "cyfnod cadarnhau". Diffinnir hyn yn is-adran (12) fel y tri mis olaf sy'n arwain at bum mlynedd ers y dyddiad cofrestru, a thri mis olaf pob cyfnod dilynol o bum mlynedd.

109. Mae is-adran (3) yn gosod dyletswydd ar Weinidogion Cymru i wneud rheoliadau ynghylch sut y mae rhaid i'r declarasiwn gael ei roi ac ynghylch ei ffurf a'i gynnwys.

110. Mae is-adran (4) yn darparu nad yw'r ddyletswydd i roi declarasiwn o fewn y cyfnod cadarnhau o dan is-adran (1) yn gymwys pan fo'r awdurdod diogelwch adeiladau wedi rhoi hysbysiad i'r prif berson atebol o benderfyniad i ddileu'r adeilad o'r gofrestr o dan adran 26(6), ac nad yw'r dyddiad y mae'r penderfyniad yn cymryd effaith arno wedi ei gyrraedd eto neu nad yw'r penderfyniad wedi cymryd effaith eto oherwydd atal dros dro o dan adran 26(9) tra bo adolygiad neu apêl yn yr arfaeth o dan adrannau 64 neu 65.

111. Os bydd atal dros dro y penderfyniad i ddileu'r adeilad o'r gofrestr hyd nes y bydd adolygiad neu apêl yn peidio â bod yn gymwys oherwydd bod y penderfyniad yn cael ei ganslo neu ei ddiddymu ar adolygiad neu apêl yn ystod yr 14 o ddiwrnodau olaf y cyfnod cadarnhau, neu ar ôl diwedd y cyfnod cadarnhau, yna mae is-adrannau (5) a (6) yn darparu bod rhaid i'r prif berson atebol roi declarasiwn perthnasol. Rhaid iddo wneud hynny cyn diwedd 14 o ddiwrnodau sy'n dechrau â'r diwrnod drannoeth y diwrnod y mae'r penderfyniad i ddileu'r adeilad o'r gofrestr yn cael ei ganslo neu ei ddiddymu.

112. Rhaid i'r awdurdod diogelwch adeiladau hysbysu'r prif berson atebol yn ysgrifenedig ei fod wedi cael y datganiad o fewn 21 o ddiwrnodau gan ddechrau â'r diwrnod drannoeth y diwrnod y rhoddir y declarasiwn (is-adran (7)).

113. Mae is-adran (8) yn darparu ei bod yn drosedd methu â chydymffurfio heb esgus rhesymol â'r ddyletswydd a osodir gan is-adran (1) neu (6) (fel y bo'n gymwys). Os y'i ceir yn euog o'r drosedd o dan is-adran (8) mae'r person yn agored i ddirwy neu garchar, neu'r ddau (is-adran (9)). Gweler hefyd adran 110 (hysbysiadau cosb benodedig).

105. Where subsection (5) ceases to prevent a revision to the register from taking effect, subsection (6) provides that the building safety authority must, if the date specified under subsection (4)(b) has already passed, set a new date for the revision to take effect unless a review or appeal has determined the date.

Declaration about accuracy of information and documents in register
Section 24 - Duty to give declaration about accuracy of information and documents included in register

106. The purpose of this section is to require a periodic review by the principal accountable person of the accuracy of information and documents included in a building's entry in the register.

107. Subsections (1) and (2) provide that the principal accountable person must give the building safety authority a "relevant declaration", about the accuracy of the information and documents included in the entry for the building in the register.

108. A "relevant declaration" must be given within the "confirmation period". This is defined in subsection (12) as the last three months leading up to the five-year anniversary of the date of registration, and the last three months of every subsequent five-year period.

109. Subsection (3) places a duty on the Welsh Ministers to make regulations about how the declaration must be given and about its form and content.

110. Subsection (4) provides that the duty to give a declaration within the confirmation period under subsection (1) does not apply where the building safety authority has given the principal accountable person notice of a decision to remove the building from the register under section 26(6), and the date on which the decision takes effect has not yet been reached or the decision has not yet taken effect because of a suspension under section 26(9) pending a review or appeal under sections 64 or 65.

111. If a suspension of the decision to remove the building from the register pending a review or appeal ceases to apply due to the decision being cancelled or quashed on review or appeal during the last 14 days of the confirmation period, or after the end of the confirmation period, then subsections (5) and (6) provide that the principal accountable person must give a relevant declaration. It must do so before the end of 14 days beginning with the day after the day on which the decision to remove the building from the register is cancelled or quashed.

112. The building safety authority must notify the principal accountable person in writing that it has received the declaration within 21 days beginning with the day after the day on which the declaration is given (subsection (7)).

113. Subsection (8) provides that it is an offence to fail, without reasonable excuse, to comply with the duty imposed by subsection (1) or (6) (as applicable). If found guilty of the offence under subsection (8) the person is liable to a fine or imprisonment, or both (subsection (9)). See also section 110 (fixed penalty notices).

114. Mae is-adran (10) yn darparu bod trosedd bellach yn cael ei chyflawni os yw'r person, ar ôl ei euogfarnu, yn parhau i fethu â rhoi declarasiwn. Os y'i ceir yn euog o'r drosedd bellach, mae'r person yn agored i ddirwy am bob diwrnod y mae'r methiant yn parhau (is-adran (11)).

Dileu adeilad o gofrestr

Adran 25 – Cais i ddileu adeilad o gofrestr

115. Er mwyn i'r gofrestr barhau i fod yn gywir, rhaid i brif berson atebol wneud cais i ddileu'r adeilad o'r gofrestr os yw'n credu, neu os dylai'n rhesymol gredu:
    - nad yw'r adeilad yn adeilad categori 1 neu 2 mwyach, neu
    - nad yw'r adeilad yn cael ei feddiannu a bydd cyfanswm y cyfnod nad yw'n cael ei feddiannu yn 6 mis o leiaf (is-adran (1)).

116. Er enghraifft, os oedd gwaith i adeilad cofrestredig yn golygu bod rhaid i'r preswylwyr adael yr adeilad heb ei feddiannu am bedwar mis yn unig, ni fyddai angen i'r prif berson atebol wneud cais i gael yr adeilad wedi ei ddileu o'r gofrestr.

117. Os disgwylir i'r gwaith a gynlluniwyd, pan fydd yn dechrau, gymryd chwe mis neu'n hwy, rhaid i'r prif berson atebol wneud cais i ddileu'r adeilad o'r gofrestr.

118. Fodd bynnag, os yw'r gwaith yr oedd disgwyl iddo yn wreiddiol i gymryd pedwar mis yn unig yn cymryd hirach na'r disgwyl, a bod y prif berson atebol bellach yn credu, neu y dylai gredu'n rhesymol, na fyddai'r adeilad bellach yn cael ei feddiannu am dri mis arall (h.y. cyfanswm o saith mis), golyga hyn na fydd yr adeilad yn cael ei feddiannu am gyfanswm o chwe mis neu'n hwy o'r dyddiad na chafodd yr adeilad ei feddiannu am y tro cyntaf. Rhaid i'r prif berson atebol wneud cais i'r awdurdod diogelwch adeiladau i ddileu'r adeilad o'r gofrestr. Yr amserlen ar gyfer gwneud hyn yw o fewn 14 o diwrnodau o gredu (neu pan ddylent fod wedi ffurfio'r gred hon yn rhesymol) y byddai disgwyl i'r adeilad fod heb ei feddiannu am gyfanswm o chwe mis neu'n hwy. Mae is-adran (2) yn darparu ar gyfer yr amserlen ar gyfer pryd y mae rhaid gwneud cais o dan is-adran (1).

119. Mae is-adran (3) yn rhoi pŵer i Weinidogion Cymru wneud rheoliadau ynghylch sut y mae rhaid gwneud cais i ddileu adeilad o'r gofrestr, gan gynnwys ei ffurf, ei gynnwys, ac unrhyw wybodaeth ychwanegol gofynnol.

120. Mae is-adran (4) yn darparu ei bod yn drosedd methu â chydymffurfio â'r ddyletswydd a osodir gan is-adran (2) heb esgus rhesymol. Byddai'r drosedd hon yn cael ei rhoi ar brawf mewn llys ynadon. Os ceir person yn euog o'r drosedd, caiff y llys osod dirwy. Nid oes terfyn uchaf ar swm y ddirwy.

121. Os ceir person yn euog o drosedd o dan is-adran (5), ar ôl euogfarn, y parheir i beidio â chydymffurfio a is-adran (2). Os y'i ceir yn euog o'r drosedd bellach, mae'r person yn agored i ddirwy am bob diwrnod y mae'r methiant yn parhau (is-adran (6)).

114. Subsection (10) provides that a further offence is committed if, after conviction, the person continues to fail to give a declaration. If found guilty of the further offence the person is liable to a fine for each day on which the failure continues (subsection (11)).

Removal of building from register

Section 25 - Application to remove building from register

115. In order that the register remains accurate, a principal accountable person must apply to have the building removed from the register if it believes, or ought reasonably to believe, that:
    - the building is no longer a category 1 or 2 building, or
    - the building is not occupied and the total period for which it is not occupied will be at least 6 months (subsection (1)).

116. For example, if work to a registered building meant that the residents had to vacate the building leaving it not occupied for only four months, the principal accountable person would not need to apply to have the building removed from the register.

117. If planned work, when it commences, is expected to take six months or longer, the principal accountable person must apply to have the building removed from the register.

118. However, if the work that was originally only expected to take four months overran, and the principal accountable person now believes, or ought reasonably to believe, that the building would now not be occupied for a further three months (i.e. a total of seven months), this means that the building will not be occupied for a total of six months or longer from the date on which it first became unoccupied. The principal accountable person must apply to the building safety authority to remove the building from the register. The timeframe for doing this is within 14 days of believing (or when they ought reasonably to have formed this belief) that the building would be expected to be unoccupied for a total of six months or longer. Subsection (2) provides for the timeframe for when an application under subsection (1) must be made.

119. Subsection (3) provides the Welsh Ministers with a power to make regulations about how an application to remove a building from the register must be made, including its form, content, and any additional required information.

120. Subsection (4) provides that it is an offence to fail, without reasonable excuse, to comply with the duty imposed by subsection (2). This offence would be tried in a magistrates' court. If a person is found guilty of the offence the court may impose a fine. There is no maximum limit on the amount of the fine.

121. Subsection (5) provides that a further offence is committed if, after conviction, subsection (2) continues not to be complied with. If found guilty of the further offence the person is liable to a fine for each day on which the failure continues (subsection (6)).

Adran 26 – Dileu adeilad o gofrestr gan awdurdod diogelwch adeiladau

122. Mae is-adran (1) yn darparu y gall yr awdurdod diogelwch adeiladau ddileu adeilad o'i gofrestr os yw'n fodlon:
- nad yw'r adeilad yn adeilad categori 1 nac yn adeilad categori 2, neu
- nad yw'r adeilad yn cael ei feddiannu a bydd cyfanswm y cyfnod nad yw'n cael ei feddiannu yn chwe mis o leiaf.

123. Mae gan yr awdurdod diogelwch adeiladau ddisgresiwn ynghylch pa un ai i ddileu adeilad o'r gofrestr.

124. Mae is-adran (2) yn darparu, cyn iddo ddileu adeilad o'r gofrestr, fod rhaid i'r awdurdod diogelwch adeiladau hysbysu'r prif berson atebol (oni bai bod y dilead arfaethedig yn dilyn cais o dan adran 25(2) ac unrhyw bersonau atebol eraill ar gyfer yr adeilad o'i fwriad i ddileu'r adeilad. Mae is-adran (3) yn darparu ar gyfer yr hyn y mae rhaid ei gynnwys mewn hysbysiad a roddir o dan is-adran (2).

125. Yna bydd gan y rheini y rhoddir yr hysbysiad iddynt "cyfnod penodol" (y mae rhaid iddo fod o leiaf 14 o ddiwrnodau) pan fo modd iddynt wneud sylwadau i'r awdurdod diogelwch adeiladau am ei gynnig i ddileu'r adeilad o'r gofrestr. Er enghraifft, os ydynt yn anghytuno â'r cynnig mae hyn yn rhoi cyfle iddynt esbonio pam eu bod yn anghytuno.

126. Rhaid i'r awdurdod diogelwch adeiladau roi sylw i unrhyw sylwadau o'r fath a wneir yn unol â'r hysbysiad a roddir o dan is-adran (2) wrth benderfynu a ddylid dileu'r adeilad o'r gofrestr is-adran (5). Unwaith y bydd yr awdurdod diogelwch adeiladau wedi gwneud penderfyniad, yna rhaid iddo hysbysu pob person atebol o'i benderfyniad ynghylch a ddylid dileu'r adeilad o'r gofrestr is-adran (6).

127. Mae is-adrannau (7) ac (8) yn gwneud darpariaeth ynghylch yr hyn y mae rhaid ei gynnwys mewn hysbysiad o benderfyniad i ddileu'r adeilad o'r gofrestr (yn dibynnu a yw'r penderfyniad i ddileu'r adeilad o'r gofrestr yn dilyn cais gan y prif berson atebol o dan adran 25(2)).

128. Mae penderfyniad i ddileu adeilad o'r gofrestr (ac eithrio pan wnaed y penderfyniad hwnnw yn unol â chais o dan adran 25(2) yn benderfyniad adolygadwy (gweler adran 63(2)). Yn dilyn canlyniad adolygiad, caiff person yr effeithir arno wneud apêl i'r tribiwnlys (gweler adran 65). Fel y cyfryw, mae is-adran (9) yn gwneud darpariaeth ynghylch yr amgylchiadau pan na all penderfyniad i ddileu adeilad o'r gofrestr ddod i rym, er mwyn galluogi'r penderfyniad i fod yn destun adolygiad ac apêl cyn i'r dilead ddod i rym.

129. Pan nad yw is-adran (9) yn gymwys mwyach, mae is-adran (10) yn darparu bod rhaid i'r awdurdod diogelwch adeiladau, os yw'r dyddiad a bennir yn yr hysbysiad a roddir o dan is-adran (8) eisoes wedi mynd heibio, bennu dyddiad yn y dyfodol i'r dilead ddod i rym, oni bai bod y dyddiad wedi ei benderfynu o ganlyniad i'r adolygiad neu'r apêl.

Section 26 - Removal of building from register by building safety authority

122. Subsection (1) provides that the building safety authority can remove a building from its register if it is satisfied that the building is:
    - neither a category 1 building nor a category 2 building, or
    - not occupied and the total period for which it is not occupied will be at least six months.

123. The building safety authority has discretion as to whether to remove a building from the register.

124. Subsection (2) provides that before it removes a building from the register, the building safety authority must notify the principal accountable person (unless the proposed removal is following an application under section 25(2) and any other accountable persons for the building of its intention to remove the building. Subsection (3) provides for what must be included in a notice given under subsection (2).

125. Those given the notice will then have a "specified period" (which must be at least 14 days) in which they can make representations to the building safety authority about its proposal to remove the building from the register. For example, if they disagree with the proposal this provides an opportunity for them to explain why they disagree.

126. The building safety authority must have regard to any such representations made in accordance with the notice given under subsection (2) in deciding whether to remove the building from the register subsection (5). Once the building safety authority has made a decision it must then notify each accountable person of its decision as to whether to remove the building from the register subsection (6).

127. Subsections (7) and (8) make provision about what must be included in a notice of a decision to remove a building from the register (depending on whether the decision to remove the building from the register is following an application by the principal accountable person under section 25(2)).

128. A decision to remove a building from the register (other than where that decision was made pursuant to an application under section 25(2) is a reviewable decision (see section 63(2)). Following the outcome of a review an affected person can make an appeal to the tribunal (see section 65). As such subsection (9) makes provision about the circumstances in which a decision to remove a building from the register cannot take effect, so as to enable the decision to be subject to review and appeal prior to the removal taking effect.

129. Where subsection (9) no longer applies, subsection (10) provides that the building safety authority must, if the date specified in the notice given under subsection (8) has already passed, set a future date for the removal to take effect, unless the date has been determined as a result of the review or appeal.

PENNOD 4 – ASESU A RHEOLI RISGIAU DIOGELWCH ADEILAD

Termau allweddol

Adran 27 – Ystyr "risg diogelwch tân" a "risg diogelwch strwythurol"

130. Mae'r adran hon yn nodi ystyr "risg diogelwch tân" a "risg diogelwch strwythurol" mewn perthynas ag adeilad rheoleiddiedig.

131. Mae "risg diogelwch tân" yn risg i ddiogelwch pobl yn yr adeilad neu o amgylch yr adeilad sy'n deillio o achos o dân yn yr adeilad neu ledaeniad tân yn yr adeilad, i'r adeilad neu o unrhyw ran o'r adeilad.

132. Mae "risg diogelwch strwythurol" yn risg i ddiogelwch pobl yn yr adeilad neu o'i amgylch sy'n deillio o fethiant strwythurol sy'n effeithio ar unrhyw ran o'r adeilad.

Adran 28 – Ystyr "risg diogelwch adeilad"

133. Mae'r adran hon yn nodi ystyr "risg diogelwch adeilad". Mewn perthynas ag adeiladau categori 1 a chategori 2, mae'r term yn golygu risg diogelwch tân a risg diogelwch strwythurol. Mewn perthynas ag adeiladau categori 3 mae'r term yn golygu risg diogelwch tân.

134. Mae is-adran (2) yn darparu pŵer i Weinidogion Cymru wneud rheoliadau sy'n addasu'r diffiniad o "risg diogelwch adeilad" i gynnwys risgiau eraill i ddiogelwch pobl mewn adeiladau sydd o fewn y cwmpas neu o'u hamgylch. Mewn perthynas ag adeilad categori 1 neu 2, bydd hynny'n risg nad yw'n risg o dân neu ddiogelwch strwythurol. Mewn perthynas ag adeiladau categori 3, gall hynny gynnwys risg diogelwch strwythurol.

135. Mae is-adran (4) yn darparu bod rhaid i unrhyw reoliadau nodi sut y mae rhaid asesu'r risg newydd a'i reoli pan fydd adeilad y mae'r rheoliadau'n gymwys iddo "wedi ei feddiannu". Caiff y rheoliadau nodi bod unrhyw ddarpariaeth o dan y Ddeddf hon sy'n gymwys mewn perthynas â risgiau diogelwch tân neu risgiau diogelwch strwythurol yn gymwys mewn perthynas â'r risg newydd neu'n gwneud darpariaeth sy'n cyfateb i unrhyw ddarpariaethau o'r fath (is-adran (5)). Er enghraifft, caiff y rheoliadau osod dyletswyddau newydd ar breswylwyr a pherchnogion unedau preswyl.

136. Mae hyn yn darparu hyblygrwydd i ymestyn cymhwysiad Rhan 1 o'r Ddeddf yn y dyfodol i adlewyrchu risgiau sy'n dod i'r amlwg i ddiogelwch pobl mewn adeiladau rheoleiddiedig neu o'u hamgylch. Er enghraifft, gallai hyn fod yn risg sy'n deillio o ganlyniad penodol i newid yn yr hinsawdd.

Risgiau diogelwch tân mewn adeiladau rheoleiddiedig

Adran 29 – Asesiad o risgiau diogelwch tân: dyletswyddau prif berson atebol

137. Mae'r adran hon yn ei gwneud yn ofynnol i'r prif berson atebol ar gyfer adeilad rheoleiddiedig wedi ei feddiannu sicrhau bod y risgiau diogelwch tân sy'n ymwneud â phob rhan o'r adeilad y mae unrhyw berson atebol yn gyfrifol amdani yn cael eu hasesu. Bydd rheoliadau Gweinidogion Cymru o dan adran 16 yn nodi rhannau'r adeiladau rheoleiddiedig y mae personau atebol yn gyfrifol amdanynt.

CHAPTER 4 - ASSESSMENT AND MANAGEMENT OF BUILDING SAFETY RISKS

Key terms

Section 27 - Meaning of "fire safety risk and "structural safety risk"

130. This section sets out the meaning of "fire safety risk" and "structural safety risk" in relation to a regulated building.

131. A "fire safety risk" is a risk to the safety of people in or about the building arising from the outbreak of fire in the building or the spread of fire in, to or from any part of the building.

132. A "structural safety risk" is a risk to the safety of people in or about the building arising from structural failure affecting any part of the building.

Section 28 - Meaning of "building safety risk"

133. This section sets out meaning of "building safety risk". In relation to category 1 and category 2 buildings the term means both a fire safety risk and a structural safety risk. In relation to category 3 buildings the term means a fire safety risk.

134. Subsection (2) provides a power for the Welsh Ministers to make regulations that modify the definition of "building safety risk" to include other risks to the safety of people in or about in-scope buildings. In relation to a category 1 or 2 building, that will be a risk that is not a fire or structural safety risk. In relation to category 3 buildings, that may include a structural safety risk.

135. Subsection (4) provides that any regulations must set out how the new risk must be assessed and managed when a building to which the regulations apply is "occupied". The regulations may specify that any provision under this Act that applies in relation to fire safety risks or structural safety risks applies in relation to the new risk or make provision corresponding to any such provisions (subsection (5)). For example, the regulations may place new duties on residents and owners of residential units.

136. This provides flexibility to extend the application of Part 1 of the Act in the future to reflect emerging risks to the safety of people in or about regulated buildings. For example, this might be a risk arising from a particular consequence of climate change.

Fire safety risks in regulated buildings

Section 29 - Assessment of fire safety risks: duties of principal accountable person

137. This section requires the principal accountable person for an occupied regulated building to ensure that the fire safety risks relating to every part of the building for which any accountable person is responsible are assessed. Welsh Ministers' regulations under section 16 will set out the parts of regulated buildings for which accountable persons are responsible.

138. Mae is-adran (4) yn darparu bod rhaid i asesiad risg tân fod yn addas ac yn ddigonol i alluogi personau atebol (neu unrhyw bersonau eraill sy'n cael eu trin fel personau atebol o dan adran 36) i gydymffurfio â'u dyletswyddau i reoli'r risgiau diogelwch tân o dan adran 33.

139. Mae gofynion pellach sy'n ymwneud ag asesiadau risg tân wedi eu cynnwys yn adrannau 30 i 32. Pwrpas y darpariaethau hyn, gyda'i gilydd, yw sicrhau bod yr asesiad yn gynhwysfawr ac yn drylwyr, gan gynnwys adlewyrchu'r mathau o risg tân sydd fel arfer yn bodoli mewn eiddo preswyl.

140. Gweler hefyd y nodyn i adran 7 sy'n esbonio effaith yr adran honno (cynnwys ardaloedd atodol) ar gyfeiriadau at "adeilad rheoleiddiedig".

Adran 30 – Gofyniad i asesiad risg tân gael ei wneud gan berson cymwys

141. Canfuwyd bod y diffyg gofyniad i asesiadau gael eu cynnal gan bersonau cymwys (o dan Orchymyn Diwygio Rheoleiddio (Diogelwch Tân) 2005 yn wall mawr yn dilyn tân Tŵr Grenfell, ac mae Ymchwiliad Cyhoeddus Tŵr Grenfell wedi argymell y dylai pob aseswr risg tân fod yn gymwys. Roedd ymgynghoriad Llywodraeth Cymru ar Adeiladau Mwy Diogel yng Nghymru yn cynnig unioni hynny. Roedd y mwyafrif o'r rhai a roddodd farn ar aseswyr risg tân cymwys yn gwbl gefnogol i'r cynnig i fynnu mai dim ond aseswyr risg tân sy'n meddu ar gymwysterau a phrofiad addas ddylai gynnal asesiadau risg tân mewn adeiladau preswyl amlfeddiannaeth.

142. Mae is-adran (3) yn rhoi pŵer i Weinidogion Cymru wneud rheoliadau sy'n pennu gofynion y mae rhaid i unigolyn neu gorff eu bodloni i gael ei ystyried yn "person cymwys". Gall y gofynion gynnwys meddu ar gymwysterau, aelodaethau neu achrediadau penodol.

143. Er enghraifft, gallai rheoliadau ei gwneud yn ofynnol i unigolyn feddu ar gymwysterau penodol mewn diogelwch tân neu fod yn aelod o gorff proffesiynol priodol. Fel enghraifft arall, gallai rheoliad ei gwneud yn ofynnol i gwmnïau sy'n cyflogi aseswyr risg tân gael eu hachredu o dan gynllun cydnabyddedig penodol.

144. Mae is-adran (5) yn darparu bod person sy'n gwneud asesiad risg tân o dan adran 29 nad yw'n berson cymwys yn cyflawni trosedd. Os oedd y prif berson atebol yn gwybod, neu y dylai'n rhesymol fod wedi gwybod, nad oedd y person yn berson cymwys mae ef hefyd yn cyflawni trosedd.

145. Os ceir person yn euog o drosedd o dan is-adran (5) mewn llys ynadon, caiff y llys osod dirwy neu gyfnod o garchar, neu'r ddau. Nid oes terfyn uchaf ar swm y ddirwy. Uchafswm y cyfnod o garchar yw 12 mis (sef y "terfyn cymwys" a nodir yn adran 224(1A) (b) o'r Cod Dedfrydu, a gynhwysir yn Neddf Dedfrydu 2020 (p. 17)).

146. Os ceir person yn euog o drosedd o dan is-adran (5) yn llys y Goron, caiff y llys osod dirwy neu gyfnod o garchar, neu'r ddau. Nid oes terfyn uchaf ar swm y ddirwy. Uchafswm y cyfnod o garchar yw 2 flynedd.

138. Subsection (4) provides that a fire risk assessment must be suitable and sufficient to enable accountable persons (or any other persons treated as accountable persons under section 36) to comply with their duties to manage the fire safety risks under section 33.

139. Further requirements relating to fire risk assessments are contained in sections 30 to 32. The purpose of these provisions, taken together, is to ensure that the assessment is comprehensive and rigorous, including reflecting the types of fire risk which typically exist in residential properties.

140. See also the note to section 7 which explains the effect of that section (inclusion of ancillary areas) on references to a "regulated building".

Section 30 - Requirement for fire risk assessment to be made by competent person

141. The lack of a requirement for assessments to be undertake by competent persons (under the Regulatory Reform (Fire Safety) Order 2005) was found to be a major flaw following the Grenfell Tower fire, and the Grenfell Tower Public Inquiry has recommended that all fire risk assessors should be competent. The Welsh Government's Safer Buildings in Wales consultation proposed to rectify that. The majority of those who provided a view on competent fire risk assessors fully supported the proposal to require that only suitably qualified and experienced fire risk assessors should undertake fire risk assessments in multi-occupied residential buildings.

142. Subsection (3) provides the Welsh Ministers with a power to make regulations specifying requirements that an individual or body must satisfy to be regarded as a "competent person". The requirements may include having particular qualifications, memberships or accreditations.

143. For example, regulations could require an individual to hold particular qualifications in fire safety or to be a member of an appropriate professional body. As another example, regulation could require companies that employ fire risk assessors to be accredited under a particular recognised scheme.

144. Subsection (5) provides that a person who makes a fire risk assessment under section 29 who is not a competent person commits an offence. If the principal accountable person knew, or ought reasonably to have known, that the person was not a competent person they also commit an offence.

145. If a person is found guilty of an offence under subsection (5) in a magistrates' court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 12 months (which is the "applicable limit" set out in section 224(1A) (b) of the Sentencing Code, contained in the Sentencing Act 2020 (c. 17)).

146. If a person is found guilty of an offence under subsection (5) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years.

147. Mae person sy'n cynnig cynnal asesiad risg tân, pan nad yw'n "person cymwys" yn cyflawni trosedd (is-adran (7)). Byddai'r drosedd hon yn cael ei rhoi ar brawf mewn llys ynadon. Os ceir person yn euog o'r drosedd, caiff y llys osod dirwy (is-adran (8)). Nid oes terfyn uchaf ar swm y ddirwy.

Adran 31 – Amseru ac adolygu asesiadau risg tân

148. Mae'r adran hon yn nodi amseru ac amlder mewn cysylltiad ag asesiadau newydd ac adolygu asesiadau, gan gynnwys amgylchiadau pan fo rhaid cwblhau asesiad pellach:
    - rhaid gwneud yr asesiad risg tân cyntaf o fewn 6 mis i adeilad rheoleiddiedig fod "wedi ei feddiannu", neu o fewn 6 mis i adran 31 ddod i rym (pa un bynnag sydd ddiweddaraf). Fodd bynnag, mae hyn yn ddarostyngedig i baragraff 1 o Atodlen 4 ar gyfer adeiladau sydd eisoes wedi cael asesiad risg o dan Orchymyn Diwygio Rheoleiddio (Diogelwch Tân) 2005 (yn ddarostyngedig i amodau penodol);
    - rhaid i'r prif berson atebol sicrhau bod yr asesiad risg tân cyfredol yn cael ei adolygu o leiaf unwaith ym mhob cyfnod o 12 mis sy'n dilyn y dyddiad y gwnaed yr asesiad. Fodd bynnag, rhaid i'r prif berson atebol sicrhau bod asesiad pellach yn cael ei wneud os yw unrhyw un neu ragor o'r amgylchiadau yn is-adrannau (2) a (4) yn gymwys.

149. Mae'r adran hon hefyd yn rhoi pŵer i Weinidogion Cymru wneud rheoliadau i amrywio'r dyddiad erbyn pryd y mae rhaid gwneud asesiad risg tân cyntaf. Gallai rheoliadau o'r fath, er enghraifft, wneud darpariaeth wahanol ar gyfer mathau gwahanol o adeiladau rheoleiddiedig (gweler darpariaeth gyffredinol am reoliadau a wneir o dan y Ddeddf hon, a nodir yn adran 135(1)(b)).

Adran 32 – Darpariaeth bellach am asesiadau risg tân

150. Mae'r adran hon yn ei gwneud yn ofynnol i'r prif berson atebol ar gyfer adeilad rheoleiddiedig sicrhau bod canfyddiadau pob asesiad ac adolygiad risg tân sy'n ymwneud â'r adeilad yn cael eu cofnodi yn ysgrifenedig. Rhaid i'r prif berson atebol hefyd sicrhau bod copi o bob asesiad yn cael ei roi i bob person atebol arall ac i unrhyw berson arall sy'n cael ei drin fel person atebol o dan adran 36.

151. Mae is-adran (2) yn rhoi'r pŵer i Weinidogion Cymru wneud rheoliadau ynghylch asesiadau risg tân, gan gynnwys materion i'w hystyried, methodoleg a gwybodaeth i'w chynnwys. Mae Llywodraeth Cymru yn bwriadu gwneud rheoliadau o'r fath i ehangu ar y "canlyniadau diogelwch tân" yn adran 33(2) er mwyn creu fframwaith manwl ar gyfer asesu risgiau tân. Mae hyn yn debygol o olygu pennu elfennau risg ar gyfer pob canlyniad, fel yr awgrymwyd yn yr ymgynghoriad Adeiladau Diogel yng Nghymru.

152. Er enghraifft, un mater a allai gynyddu'r tebygolrwydd o dân yn cychwyn mewn adeilad yw a oes tanwydd llosgadwy wedi cronni (fel sbwriel neu bost sothach) yn rhannau cyffredin yr adeilad. Gallai'r rheoliadau nodi bod hwnnw'n fater y mae rhaid i asesiad risg tân ei ystyried.

153. Mae is-adran (2) hefyd yn rhoi pŵer i Weinidogion Cymru wneud rheoliadau ynghylch sut i gyfrifo'r cyfnodau ar gyfer gwneud asesiadau risg tân a'u hadolygu mewn achosion pan nad yw adeilad rheoleiddiedig wedi ei feddiannu am gyfnod estynedig.

147. A person who offers to carry out a fire risk assessment, when they are not a competent person commits an offence (subsection (7)). This offence would be tried in a magistrates' court. If a person is found guilty of the offence the court may impose a fine (subsection (8)). There is no maximum limit on the amount of the fine.

Section 31 - Timing and review of fire risk assessments

148. This section sets out timings and frequencies in respect of new assessments and review of assessments, including circumstances when a further assessment must be completed:

- the first fire risk assessment must be made within 6 months of a regulated building becoming "occupied", or within 6 months of section 31 coming into force (whichever is later). This is, though, subject to paragraph 1 of Schedule 4 for buildings that already have a risk assessment under the Regulatory Reform (Fire Safety) Order 2005 (subject to certain conditions);
- the principal accountable person must ensure that the current fire risk assessment is reviewed at least once in every 12-month period that follows the date when the assessment was made. However, the principal accountable person must ensure that a further assessment is made if any of the circumstances in subsections (2) and (4) apply.

149. This section also provides the Welsh Ministers with a power to make regulations to vary the deadline by when a first fire risk assessment must be made. Such regulations could, for example, make different provision for different types of regulated buildings (see the general provision about regulations made under this Act, set out in section 135(1)(b)).

Section 32 - Further provision about fire risk assessments

150. This section requires the principal accountable person for a regulated building to ensure that the findings of every fire risk assessment and review relating to the building are recorded in writing. The principal accountable person must also ensure that a copy of each assessment is given to every other accountable person and to any other person who is treated as an accountable person under section 36.

151. Subsection (2) provides the Welsh Ministers with the power to make regulations concerning fire risk assessments, including matters to be considered, methodology and information to be included. The Welsh Government intends to make such regulations to expand on the "fire safety outcomes" in section 33(2) so as to create a detailed framework for assessing fire risks. This is likely to entail specifying risk elements for each outcome, as suggested in the Safer Buildings in Wales consultation.

152. For example, one matter that may increase the likelihood of fire breaking out in a building is whether there is a buildup of combustible fuel (like rubbish or junk mail) in the common parts of the building. The regulations could specify that that is a matter which a fire risk assessment must consider.

153. Subsection (2) also provides Welsh Ministers with a power to make regulations about how to calculate the periods for making and reviewing fire risk assessments in cases where a regulated building is not occupied for an extended period.

Adran 33 – Rheoli risgiau diogelwch tân gan bersonau atebol

154. Mae'r adran hon yn nodi cyfrifoldebau person atebol ar gyfer adeilad rheoleiddiedig wedi ei feddiannu, ac unrhyw berson arall sy'n cael ei drin fel person atebol o dan adran 36 mewn perthynas â rheoli risgiau diogelwch tân sy'n ymwneud â'r rhannau o'r adeilad y mae'r person yn gyfrifol amdanynt. Bydd rheoliadau o dan adran 16 yn nodi rhannau'r adeiladau rheoleiddiedig y mae personau atebol yn gyfrifol amdanynt.

155. Rhaid i'r person atebol gymryd pob cam rhesymol i atal risg tân rhag digwydd mewn perthynas â rhan y person o'r adeilad ac i leihau difrifoldeb unrhyw ddigwyddiad sy'n deillio o risg o'r fath yn cael ei wireddu.

156. Yn benodol, rhaid i'r person gymryd pob cam rhesymol ar gyfer:

- lleihau'r tebygolrwydd y bydd tân yn cychwyn yn y rhan honno;
- lleihau'r tebygolrwydd os bydd unrhyw dân yn cychwyn yn y rhan honno o'r adeilad neu'n agos iddi, y bydd yn lledaenu yn y rhan honno, i'r rhan honno neu o'r rhan honno;
- sicrhau bod pobl sydd mewn risg oherwydd tân yn y rhan honno yn gallu dianc yn gyflym ac yn ddiogel;
- sicrhau y gellir ymladd unrhyw dân yn y rhan honno yn brydlon ac yn effeithiol.

157. Y nod yw sicrhau diogelwch unrhyw un yn yr adeilad neu o'i amgylch mewn perthynas â risgiau tân hyd yn oed os bydd tân yn digwydd.

158. Byddai'r camau y byddai angen i berson atebol eu cymryd yn debygol o fod mewn ymateb i risgiau tân a nodwyd gan yr asesiad risg tân ar gyfer yr adeilad, sy'n gyfrifoldeb i'r prif berson atebol, fel y nodir yn adran 29, ac y mae rhaid i berson atebol roi sylw iddynt (is-adran (4)). Fodd bynnag, rhaid i'r person atebol barhau i gymryd y camau a nodir yn is-adrannau (1) a (2) gydag asesiad risg tân llawn a chyfredol ar gyfer yr adeilad, neu hebddo. Felly, os daw risg tân i'r amlwg rywbryd ar ôl i'r asesiad risg tân gael ei gwblhau, rhaid mynd i'r afael ag ef; ni all y person atebol aros nes bod asesiad risg tân pellach wedi ei gwblhau.

159. Gall y camau gynnwys gwneud gwaith (is-adran (3)). Rhaid cymryd y camau yn brydlon (is-adran (5)).

160. Yn ogystal â gofyn am weithredu i fynd i'r afael â risgiau tân, mae'r adran hon (is-adran (6)) hefyd yn ei gwneud yn ofynnol i bersonau atebol wneud trefniadau i gynllunio, trefnu, rheoli, monitro ac adolygu'r camau a gymerir ganddynt o dan yr adran hon, ac i roi effaith i'r trefniadau hynny.

161. Mae is-adran (7) yn ei gwneud yn ofynnol i bersonau atebol wneud cofnod ysgrifenedig o'r camau a gymerwyd ganddynt, ac o'r trefniadau a wnaed ganddynt, o dan yr adran hon.

Section 33 - Management of fire safety risks by accountable persons

154. This section sets out the responsibilities of an accountable person for an occupied regulated building, and of any other person treated as an accountable person under section 36 with regards to the management of fire safety risks relating to the parts of the building for which the person is responsible. Regulations under section 16 will set out the parts of regulated buildings for which accountable persons are responsible.

155. The accountable person must take all reasonable steps to prevent a fire risk materialising in relation to the person's part of the building and to reduce the severity of any incident that results from such a risk materialising.

156. In particular, the person must take all reasonable steps for:
- minimising the likelihood a fire will break out in that part,
- minimising the likelihood that if a fire does break out in or near that part, it will spread in, to or from that part,
- ensuring people who are at risk from fire in that part can escape quickly and safely,
- ensuring any fire in that part can be fought promptly and effectively.

157. The aim is to ensure the safety of anyone in or about the building in relation to fire risks even if a fire does happen.

158. The steps that an accountable person would need to take would be likely to be in response to fire risks identified by the fire risk assessment for the building, which is the responsibility of the principal accountable person, as set out in section 29, and to which an accountable person must have regard (subsection (4)). However, the accountable person must still take the steps set out in subsections (1) and (2) with or without a full, up to date fire risk assessment for the building. So, if a fire risk becomes apparent sometime after the fire risk assessment has been completed, it must be addressed; the accountable person cannot wait until a further fire risk assessment is completed.

159. The steps may include carrying out works (subsection (3)). The steps must be taken promptly (subsection (5)).

160. As well as requiring action to address fire risks, this section (subsection (6)) also requires accountable persons to make arrangements to plan, organise, control, monitor and review steps taken by them under this section, and to give effect to those arrangements.

161. Subsection (7) requires accountable persons to make a written record of the steps taken by them, and of arrangements made by them, under this section.

162. Mae is-adran (8) yn rhoi pwerau gwneud rheoliadau i Weinidogion Cymru wneud darpariaeth bellach benodol ynglŷn â'r gofynion a roddir ar bersonau atebol o dan yr adran hon. Gallai'r rheoliadau, er enghraifft, bennu'r hyn sy'n "camau rhesymol" o ran rheoli risgiau diogelwch tân. Gall y rheoliadau bennu materion y mae rhaid i bersonau atebol roi sylw iddynt, neu egwyddorion y mae rhaid iddynt weithredu yn unol â hwy, wrth benderfynu pa gamau i'w cymryd, a chymryd y camau hynny, o dan yr adran hon.

163. Mae'r Papur Gwyn Adeiladau Mwy Diogel yng Nghymru yn nodi rhai materion posibl neu "elfennau risg" gydag enghreifftiau o'r "camau" y gellid eu cymryd. Mae Llywodraeth Cymru yn bwriadu nodi materion fel y rhain mewn rheoliadau o dan yr adran hon, a byddant yn destun ymgynghoriad pellach.

164. Gallai rheoliadau bennu gofynion y byddai'n rhaid i unrhyw drefniadau y mae person atebol yn eu gwneud i reoli risgiau diogelwch tân gydymffurfio â hwy. Gellid defnyddio hyn, er enghraifft, pan ystyrir y gallai fod angen gofyniad penodol, er enghraifft ynghylch arolygu drysau tân neu gynnal a chadw lifftiau diffodd tân.

165. Caiff y rheoliadau hefyd bennu gwybodaeth y mae rhaid ei chynnwys mewn cofnod ysgrifenedig o'r trefniadau a wnaed, neu'r camau a gymerir, o dan yr adran hon. Gellid defnyddio hyn i sicrhau bod person atebol yn dal yr wybodaeth angenrheidiol i sicrhau bod cofnod ysgrifenedig llawn a defnyddiol yn cael ei greu unwaith eto i'w cynorthwyo hwy ac eraill i reoli risgiau tân a darparu prawf o gydymffurfiaeth â'r adran hon.

166. Mae is-adran (9) yn darparu bod cyfeiriadau at berson atebol yn yr adran hon yn cynnwys y rhai sy'n cael eu trin fel personau atebol o dan adran 36, felly mae'r dyletswyddau yn yr adran hon yn gymwys i'r personau hynny hefyd (yn ddarostyngedig i'r cyfyngiadau yn adran 36(2), (3) a (4)).

167. Gweler hefyd y nodyn i adran 7 sy'n esbonio effaith yr adran honno (cynnwys ardaloedd atodol) ar gyfeiriadau at "adeilad rheoleiddiedig".

Risgiau diogelwch strwythurol mewn adeiladau categori 1 ac adeiladau categori 2

Adran 34 – Asesu risgiau diogelwch strwythurol: dyletswyddau personau atebol

168. Mae'r adran hon yn ei gwneud yn ofynnol i bersonau atebol am adeiladau categori 1 ac adeiladau categori 2 a feddiennir sicrhau bod y "risgiau diogelwch strwythurol" sy'n ymwneud â'r rhan o'r adeilad y maent yn gyfrifol amdani yn cael eu hasesu. Bydd rheoliadau Gweinidogion Cymru o dan adran 16 yn nodi rhannau'r adeiladau rheoleiddiedig y mae personau atebol yn gyfrifol amdanynt.

169. Rhaid i asesiad risg strwythurol fod yn addas ac yn ddigonol i alluogi'r person atebol, a'r rhai sy'n cael eu trin fel person atebol o dan adran 36 i gydymffurfio â'u dyletswyddau o dan adran 35 (is-adran (3)(b)).

170. Rhaid i asesiadau gael eu cynnal gan unigolion neu gyrff a chanddynt arbenigedd neu brofiad digonol sy'n eu galluogi i asesu'r risgiau diogelwch strwythurol mewn perthynas â'r rhan o'r adeilad y mae'r person atebol yn gyfrifol amdani (is-adran (3)(a)). Caiff yr asesiad, er enghraifft, nodi materion y mae angen ymchwiliad pellach gan berson cymwysedig iddynt, fel syrfëwr neu beiriannydd adeiladu.

162. Subsection (8) provides Welsh Ministers with regulation making powers to make certain further provision about the requirements placed on accountable persons under this section. The regulations could, for example, specify what are "reasonable steps" with regards to managing fire safety risks. The regulations may specify matters to which accountable persons must have regard, or principles they must act in accordance with, in determining what steps to take, and the taking of those steps, under this section.

163. The Safer Buildings in Wales White Paper set out some possible matters or "risk elements" with examples of "steps" which could be taken. The Welsh Government intends to set out matters such as these in regulations under this section, which will be subject to further consultation.

164. Regulations could specify requirements with which any arrangements an accountable person makes to manage fire safety risks would have to comply. This could, for example, be used where it is considered a specific requirement may be needed, for example around the inspection of fire doors or the maintenance of firefighting lifts.

165. The regulations may also specify information that must be included in a written record of arrangement made, or steps taken, under this section. This could be used to ensure an accountable person in capturing the necessary information to ensure a full, useful written record is created to, again, assist them and others in managing fire risks and provide proof of compliance with this section.

166. Subsection (9) provides that references to an accountable person in this section include those treated as accountable under section 36, so the duties in this section apply to those persons too (subject to the limitations in section 36 (2), (3) and (4)).

167. See also the note to section 7 which explains the effect of that section (inclusion of ancillary areas) on references to a "regulated building".

Structural safety risks in category 1 buildings and category 2 buildings
Section 34 - Assessment of structural safety risks: duties of accountable persons

168. This section requires accountable persons for occupied category 1 buildings and category 2 buildings to ensure that the "structural safety risks" relating to the part of the building for which they are responsible are assessed. Welsh Ministers' regulations under section 16 will set out the parts of regulated buildings for which accountable persons are responsible.

169. A structural risk assessment must be suitable and sufficient to enable the accountable person, and those treated as an accountable person under section 36 to comply with their duties under section 35 (subsection (3)(b)).

170. Assessments must be conducted by individuals or bodies with sufficient expertise or experience that enable them to assess the structural safety risks in relation to the part of the building for which the accountable person is responsible (subsection (3)(a)). The assessment may, for example, identify issues which need further investigation by a qualified person, such as a surveyor or structural engineer.

171. Nid yw'n ofynnol i'r person sy'n gwneud yr asesiad risg strwythurol feddu ar gymhwyster neu achrediad penodol, oni bai bod Gweinidogion Cymru yn gwneud rheoliadau ynghylch materion o'r fath o dan is-adran (7).

172. Rhaid i berson atebol sicrhau bod ei asesiad cyntaf yn cael ei gynnal cyn gynted â phosibl ar ôl y diweddaraf o'r digwyddiadau a ganlyn (is-adran (4)):
- bod yr adeilad yn cael ei feddiannu,
- bod y person yn dod yn berson atebol ar gyfer yr adeilad, neu
- bod adran 34 yn dod i rym.

173. Rhaid gwneud asesiadau pellach yn rheolaidd a chyn gynted â phosibl os oes gan y person atebol reswm i amau nad yw'r asesiad cyfredol bellach yn addas nac yn ddigonol i alluogi'r person atebol i gydymffurfio â'i ddyletswyddau o dan adran 35 (is-adran (5)(a) a (b)).

174. Caiff yr awdurdod diogelwch adeiladau ar gyfer yr adeilad hefyd gyfarwyddo person atebol i gynnal asesiad risg strwythurol pellach. Er enghraifft, gallai wneud hyn os yw'n credu nad yw'r asesiad risg strwythurol presennol yn addas nac yn ddigonol (is-adran (5)(c)).

175. Mae is-adran (6) yn ei gwneud yn ofynnol cofnodi canfyddiadau'r asesiad yn ysgrifenedig a bod copi o bob asesiad yn cael ei roi i'r prif berson atebol ar gyfer yr adeilad.

176. Mae is-adran (7) yn rhoi pŵer i Weinidogion Cymru wneud rheoliadau ynghylch materion amrywiol, gan gynnwys:
- gofynion mewn perthynas ag arbenigedd neu brofiad digonol aseswyr,
- gofynion cymwysterau neu achredu ar gyfer aseswyr,
- materion i'w hystyried mewn asesiadau,
- methodoleg ar gyfer yr asesiadau,
- gwybodaeth sydd i'w chynnwys yn y cofnod ysgrifenedig sy'n ofynnol gan is-adran (6), ac
- y cyfnod hiraf rhwng asesiadau.

177. Gweler hefyd y nodyn i adran 7 sy'n esbonio effaith yr adran honno (cynnwys ardaloedd atodol) ar gyfeiriadau at "adeilad categori 1" neu "adeilad categori 2".

Adran 35 – Rheoli risgiau diogelwch strwythurol gan bersonau atebol

178. Mae is-adran (1) yn gosod dyletswydd ar bob person atebol ar gyfer adeilad categori 1 neu gategori 2 wedi ei feddiannu i gymryd pob cam rhesymol i atal risgiau diogelwch strwythurol rhag cael eu gwireddu mewn perthynas â'r rhan o'r adeilad y mae'r person yn gyfrifol amdani ac i leihau difrifoldeb unrhyw ddigwyddiadau sy'n deillio o risg o'r fath yn cael ei gwireddu. Gall y camau gynnwys gwneud gwaith (is-adran (2)). Rhaid cymryd y camau yn brydlon (is-adran (3)).

179. Yn ogystal â'i gwneud yn ofynnol i weithredu i fynd i'r afael â risgiau diogelwch strwythurol, mae'r adran hon (is-adran (4)) hefyd yn ei gwneud yn ofynnol i bersonau atebol wneud trefniadau i gynllunio, trefnu, rheoli, monitro ac adolygu'r camau a gymerir ganddynt o dan yr adran hon, ac i roi effaith i'r trefniadau hynny.

171. The person making the structural risk assessment is not required to hold a particular qualification or accreditation, unless the Welsh Ministers make regulations about such matters under subsection (7).

172. An accountable person must ensure their first assessment is carried out as soon as possible after the latest of the following events (subsection (4)):
- the building becomes occupied,
- the person becomes an accountable person for the building, or
- section 34 comes into force.

173. Further assessments must be done regularly and as soon as possible if the accountable person has reason to suspect that the current assessment is no longer suitable and sufficient to enable the accountable person to comply with their duties under section 35 (subsection (5)(a) and (b)).

174. The building safety authority for the building may also direct an accountable person to undertake a further structural risk assessment. For example, it might do this if it believes that the current structural risk assessment is not suitable and sufficient (subsection (5)(c)).

175. Subsection (6) requires that the findings of the assessment must be recorded in writing and that a copy of each assessment is given to the principal accountable person for the building.

176. Subsection (7) provides Welsh Ministers with a power to make regulations about various matters, including:
- requirements in relation to sufficient expertise or experience of assessors,
- qualifications or accreditation requirements for assessors,
- matters to be considered in assessments,
- methodology for the assessments,
- information to be included in the written record required by subsection (6), and
- maximum intervals between assessments.

177. See also the note to section 7 which explains the effect of that section (inclusion of ancillary areas) on references to a "category 1 building" or a "category 2 building".

Section 35 - Management of structural safety risks by accountable persons

178. Subsection (1) places a duty on each accountable person for an occupied category 1 or category 2 building to take all reasonable steps to prevent structural safety risks from materialising in relation to the part of the building for which the person is responsible and to reduce the severity of any incidents that results from such a risk materialising. The steps may include carrying out works (subsection (2)). The steps must be taken promptly (subsection (3)).

179. As well as requiring action to address structural safety risks, this section (subsection (4)) also requires accountable persons to make arrangements to plan, organise, control, monitor and review steps taken by them under this section, and to give effect to those arrangements.

180. Mae is-adran (5) yn ei gwneud yn ofynnol i bersonau atebol wneud cofnod ysgrifenedig o'r camau a gymerwyd ganddynt, ac o'r trefniadau a wnaed ganddynt, o dan yr adran hon.

181. Mae is-adran (6) yn rhoi pwerau gwneud rheoliadau i Weinidogion Cymru wneud darpariaeth bellach benodol ynglŷn â'r gofynion a roddir ar bersonau atebol o dan yr adran hon. Gallai'r rheoliadau, er enghraifft, bennu'r hyn sy'n "camau rhesymol" o ran rheoli risgiau diogelwch strwythurol. Caiff y rheoliadau bennu materion y mae rhaid i bersonau atebol roi sylw iddynt, neu egwyddorion y mae rhaid iddynt weithredu yn unol â hwy, wrth benderfynu pa gamau i'w cymryd, a chymryd y camau hynny, o dan yr adran hon.

182. Mae is-adran (8) yn darparu bod cyfeiriadau at berson atebol yn yr adran hon yn cynnwys y rhai sy'n cael eu trin fel personau atebol o dan adran 36, felly mae'r dyletswyddau yn yr adran hon yn gymwys i'r personau hynny hefyd (yn ddarostyngedig i'r cyfyngiadau yn adran 36(2), (3) a (4)).

183. Er enghraifft, pe bai person atebol, fel rhan o asesiad risg strwythurol, yn nodi y gallai rhai gosodiadau balconi yn y rhan o'r adeilad y mae'r person yn gyfrifol amdani fod mewn risg o fethu, byddai'r person o dan ddyletswydd i gymryd camau rhesymol i atal y risg rhag cael ei gwireddu. Rhaid cymryd y camau yn brydlon.

Rheoli risgiau diogelwch adeilad gan bersonau eraill
Adran 36 – Rheoli risgiau diogelwch adeilad gan bersonau heblaw am bersonau atebol

184. Mae'r adran hon yn darparu bod personau (ac eithrio personau atebol gwirioneddol) a chanddynt rwymedigaethau cytundebol (ac eithrio o dan les) i ddarparu gwasanaethau sy'n ymwneud ag atgyweirio, cynnal a chadw neu ddiogelwch adeiladau rhannau penodol o adeilad rheoleiddiedig, yn cael eu trin at rai dibenion y Ddeddf fel person atebol sy'n gyfrifol am y rhan o dan sylw.

185. Mae'r adran hefyd yn darparu bod personau eraill a chanddynt rywfaint o reolaeth dros rannau penodol o adeilad rheoleiddiedig yn cael eu trin at rai dibenion y Ddeddf fel person atebol sy'n gyfrifol am y rhan o dan sylw.

186. Y rhannau penodol o adeilad rheoleiddiedig y cyfeirir atynt yn y ddau baragraff blaenorol yw'r rhannau hynny y mae person atebol gwirioneddol yn gyfrifol amdanynt, ac sy'n rhannau cyffredin (neu a fyddai'n rhannau cyffredin oni bai am y ffaith eu bod wedi eu cynnwys mewn demeis uned breswyl) (gweler adran 13 am ystyr "rhannau cyffredin").

187. Fodd bynnag, ni chaiff personau eu trin fel personau atebol ond mewn perthynas â materion sydd o fewn cwmpas eu rhwymedigaethau cytundebol (os ydynt yn dod o fewn is-adran (2)) neu dim ond mewn perthynas â materion sydd o fewn eu rheolaeth (os ydynt yn dod o fewn is-adran (3)).

180. Subsection (5) requires accountable persons to make a written record of the steps taken by them, and of arrangements made by them, under this section.

181. Subsection (6) provides Welsh Ministers with regulation making powers to make certain further provision about the requirements placed on accountable persons under this section. The regulations could, for example, specify what are "reasonable steps" with regards to managing structural safety risks. The regulations may specify matters to which accountable persons must have regard, or principles they must act in accordance with, in determining what steps to take, and the taking of those steps, under this section.

182. Subsection (8) provides that references to an accountable person in this section include those treated as accountable under section 36 so the duties in this section apply to those persons too (subject to the limitations in section 36 (2), (3) and (4)).

183. For example, if an accountable person, as part of a structural risk assessment, identified that some balcony fixings in the part of the building for which the person is responsible could be at risk of failure, the person would be under a duty to take reasonable steps to prevent the risk materialising. The steps must be taken promptly.

Management of building safety risks by other persons
Section 36 - Management of building safety risks by persons other than accountable persons

184. This section provides that persons (other than actual accountable persons) who have contractual obligations (other than under a lease) to provide services relating to the repair, maintenance or building safety of certain parts of a regulated building, are treated for some purposes of the Act as an accountable person who is responsible for the part in question.

185. The section also provides that other persons who have a degree of control over certain parts of a regulated building are treated for some purposes of the Act as an accountable person who is responsible for the part in question.

186. The certain parts of a regulated building referred to in the preceding two paragraphs are those parts for which an actual accountable person is responsible, and which are common parts (or would be common parts but for the fact that they are included in the demise of a residential unit) (see section 13 for the meaning of "common parts").

187. However, persons are treated as accountable persons only in relation to matters that are within scope of their contractual obligations (if they fall within subsection (2)) or only in relation to matters that are within their control (if they fall within subsection (3)).

188. Mae personau sy'n cael eu trin fel personau atebol o dan yr adran hon yn cael eu trin fel personau atebol at ddibenion darpariaethau penodol y Ddeddf yn unig. Mae'r darpariaethau hyn yn cynnwys adran 33 (rheoli risgiau diogelwch tân), adran 48 (pŵer Gweinidogion Cymru i osod dyletswydd i gadw gwybodaeth a dogfennau) ac adran 49 (pŵer Gweinidogion Cymru i osod dyletswydd i roi gwybodaeth a dogfennau i bersonau eraill).

189. Mae hyn yn golygu, er enghraifft, y byddai contractwr sy'n ymgymryd â gwaith i atgyweirio lifft a oedd yn rhan o rannau cyffredin adeilad rheoleiddiedig o dan y dyletswyddau a nodir yn adran 33 (rheoli risgiau diogelwch tân) mewn perthynas â'r lifft, ond dim ond mewn perthynas â'r gwaith y maent yn ei wneud.

190. Mae person sy'n cael ei drin fel person atebol ar gyfer rhan o adeilad rheoleiddiedig yn ychwanegol at y person sy'n berson atebol am y rhan honno (gweler adran 8; bydd rheoliadau Gweinidogion Cymru o dan adran 16 yn nodi'r rhannau o adeiladau rheoleiddiedig y mae personau atebol yn gyfrifol amdanynt).

191. Mae is-adran (4) yn atal person rhag cael ei drin o dan is-adran (3) fel person atebol ar gyfer rhan o adeilad y bwriedir iddo wella diogelwch pobl yn yr adeilad neu o'i amgylch mewn perthynas â risg diogelwch adeilad (megis system larwm tân integredig). Mae'n berthnasol os yw unig "rheolaeth" y person dros y rhan honno yn deillio o'u bod yn breswylydd neu'n berchennog uned breswyl.

PENNOD 5 – DYLETSWYDDAU SY'N GYMWYS I ADEILADAU CATEGORI 1 A FEDDIENNIR YN UNIG

Adroddiadau achos diogelwch

Adran 37 – Llunio ac adolygu adroddiad achos diogelwch gan brif berson atebol

192. Mae is-adran (1) yn gosod dyletswydd ar brif berson atebol ar gyfer adeilad categori 1 a feddiennir i lunio "adroddiad achos diogelwch".

193. Mae "adroddiad achos diogelwch" yn adroddiad sy'n cynnwys gwybodaeth a bennir mewn rheoliadau a wneir gan Weinidogion Cymru (is-adran (1)). Mae'r wybodaeth hon yn ymwneud â'r asesiadau risg tân a risg strwythurol cyfredol sydd wedi eu gwneud ar gyfer yr adeilad, yn ogystal â'r camau a gymerwyd i reoli'r risgiau a nodwyd.

194. Diben yr adroddiad achos diogelwch yw dangos bod risgiau diogelwch tân sy'n ymwneud â'r adeilad wedi eu hasesu yn unol ag adrannau 29 a 32 ac unrhyw reoliadau a wneir o dan yr adrannau hynny. Diben arall yw dangos bod risgiau diogelwch strwythurol sy'n ymwneud â'r adeilad wedi eu hasesu yn unol ag adran 34 ac unrhyw reoliadau a wneir o dan yr adran honno. Ei ddiben pellach yw dangos bod pob cam rhesymol wedi ei gymryd i:
    - atal risgiau diogelwch tân a risgiau strwythurol rhag digwydd mewn perthynas â'r adeilad, a
    - lleihau difrifoldeb unrhyw ddigwyddiad sy'n deillio o risg o'r fath.

188. Persons treated as accountable persons under this section are treated as accountable persons only for the purposes of certain provisions of the Act. These provisions include section 33 (management of fire safety risks), section 48 (power of the Welsh Ministers to impose a duty to keep information and documents) and section 49 (power of the Welsh Ministers to impose a duty to give information and documents to other persons).

189. This means, for example, that a contractor undertaking work to repair a lift that was part of a regulated building's common parts would be under the duties set out in section 33 (management of fire safety risks) in relation to the lift, but only in relation to the work that they are undertaking.

190. A person who is treated as an accountable person for a part of a regulated building is additional to the person who is the accountable person responsible for that part (see section 8; Welsh Ministers regulations under section 16 will set out the parts of regulated buildings for which accountable persons are responsible).

191. Subsection (4) prevents a person being treated under subsection (3) as an accountable person for a part of a building that is intended to improve the safety of people in or about the building in relation to a building safety risk (such as an integrated fire alarm system). It applies if the person's only "control" over that part results from them being a resident or owner of a residential unit.

CHAPTER 5 - DUTIES APPLYING ONLY TO OCCUPIED CATEGORY 1 BUILDINGS

Safety case reports

Section 37 - Preparation and revision of safety case report by principal accountable person

192. Subsection (1) places a duty on a principal accountable person for an occupied category 1 building to prepare a "safety case report".

193. A "safety case report" is a report containing information specified in regulations made by the Welsh Ministers (subsection (1)). This information relates to the current fire and structural risk assessments that have been made for the building, as well as steps taken to manage the risks identified.

194. The purpose of the safety case report is to demonstrate that fire safety risks relating to the building have been assessed in accordance with sections 29 and 32 and any regulations made under those sections. Another purpose is to demonstrate that structural safety risks relating to the building have been assessed in accordance with section 34 and any regulations made under that section. Its further purpose is to demonstrate that all reasonable steps have been taken to:

- prevent fire and structural safety risks from materialising in relation to the building, and to
- reduce the severity of any incident resulting from such a risk.

195. Caiff gwybodaeth fanylach a gedwir am adeilad (megis yr hyn y gellir ei bennu mewn rheoliadau a wneir o dan adrannau 48 a 49) fod yn berthnasol i reoliadau, neu yn ofynnol ganddynt i'w cynnwys mewn adroddiad achos diogelwch. Er enghraifft, gallai hyn fod yn wybodaeth am brofion sydd wedi eu cynnal ar gydrannau'r adeilad, manylion adeiladu'r adeilad, neu wybodaeth arall a gedwir am yr adeilad.

196. Rhaid llunio'r adroddiad achos diogelwch cyn gynted ag y bo'n rhesymol ymarferol ar ôl y diweddaraf o'r digwyddiadau a grybwyllir yn is-adran (3).

197. Cyn gynted â phosibl ar ôl llunio'r adroddiad achos diogelwch, rhaid i'r prif berson atebol roi copi i awdurdod diogelwch adeiladau yr adeilad (is-adran (4)). Rhaid cyflwyno copi o'r adroddiad achos diogelwch presennol hefyd fel rhan o gais am dystysgrif adeilad i'r awdurdod diogelwch adeiladau o dan adran 43(1)(a).

198. Dylai'r adroddiad achos diogelwch ddarparu ffynhonnell wybodaeth gywir am sut mae risgiau diogelwch tân a risgiau strwythurol sy'n ymwneud â'r adeilad yn cael eu hasesu a'u rheoli. Rhaid i'r prif berson atebol adolygu'r adroddiad yn rheolaidd a'i ddiwygio os oes angen i sicrhau ei fod yn gyfredol (is-adran (5)). Mae is-adran (6) yn darparu bod rhaid i'r prif berson atebol ddiwygio'r adroddiad achos diogelwch, yn unol ag unrhyw gyfarwyddyd a wneir gan yr awdurdod diogelwch adeiladau ar gyfer yr adeilad.

199. Mae is-adran (7) yn darparu bod rhaid i'r prif berson atebol roi copi o unrhyw adroddiad diwygiedig i'r awdurdod diogelwch adeiladau, ynghyd â hysbysiad sy'n crynhoi'r diwygiadau yn yr adroddiad. Bydd hyn yn sicrhau bod gan yr awdurdod diogelwch adeiladau y fersiwn ddiweddaraf o'r adroddiad achos diogelwch.

200. Gall rheoliadau o dan is-adran (8) wneud darpariaeth yn ychwanegol at yr hyn a wneir o dan is-adran (1) ynghylch cynnwys adroddiad achos diogelwch, yn ogystal â hysbysiad a roddir o dan is-adran (7)(b). Gallant hefyd wneud darpariaeth ynghylch ffurf a rhoi adroddiadau neu hysbysiadau o dan yr adran hon.

Cofnodi ac adrodd mewn perthynas â risgiau diogelwch adeilad

Adran 38 – System cofnodi achlysuron: dyletswydd prif berson atebol

201. Mae is-adran (1) yn gosod dyletswydd ar y prif berson atebol ar gyfer adeilad categori 1 a feddiennir i sefydlu a gweithredu system cofnodi achlysuron at y diben o alluogi personau atebol i gydymffurfio â'u dyletswyddau o dan adran 39. Bydd y system hon yn cael ei defnyddio i gasglu a chadw gwybodaeth am ddigwyddiadau neu sefyllfaoedd sy'n deillio o risgiau diogelwch adeilad, sy'n arwain at risgiau diogelwch adeilad o'r fath neu sy'n gysylltiedig fel arall â'r risg diogelwch adeilad ac yn rhoi'r wybodaeth honno i bersonau atebol (is-adran (2)).

202. Bydd y system cofnodi achlysuron yn galluogi preswylwyr, a phobl eraill sy'n gysylltiedig â'r adeilad, i roi gwybod am ddigwyddiadau diogelwch adeilad sy'n ymwneud â diogelwch tân neu ddiogelwch strwythurol. Ni fydd yn orfodol i drigolion gyflwyno'r adroddiadau hyn, ond bydd y system yn galluogi i adroddiadau a gyflwynir gael eu dal a'u cadw mewn un lle.

195. More detailed information that is held about a building (such as that which may be specified in regulations made under sections 48 and 49) may be relevant to, or be required by regulations to be included in, a safety case report. For example, this might be information about tests that have been carried out on components of the building, details of the building's construction, or other information that is held about the building.

196. The safety case report must be prepared as soon as reasonably practicable after the latest of the events mentioned in subsection (3).

197. As soon as possible after preparing the safety case report, the principal accountable person must give a copy to the building safety authority for the building (subsection (4)). A copy of the current safety case report must also be submitted as part of a building certificate application to the building safety authority under section 43(1)(a).

198. The safety case report should provide an accurate source of information about how fire and structural safety risks relating to the building are being assessed and managed. The principal accountable person must keep the report under review and revise it if necessary to ensure that it is up to date (subsection (5)). Subsection (6) provides that the principal accountable person must revise the safety case report, in accordance with any direction made by the building safety authority for the building.

199. Subsection (7) provides that the principal accountable person must give a copy of any revised report to the building safety authority, along with a notice summarising the revisions in the report. This will ensure that the building safety authority has the most up-to-date version of the safety case report.

200. Regulations under subsection (8) can make provision in addition to that made under subsection (1) about the content of a safety case report, as well as a notice given under subsection (7)(b). They can also make provision about the form and giving of reports or notices under this section.

Recording and reporting in relation to building safety risks

Section 38 - Occurrence recording system: duty of principal accountable person

201. Subsection (1) places a duty on the principal accountable person for an occupied category 1 building to establish and operate an occurrence recording system for the purpose of enabling accountable persons to comply with their duties under section 39. This system will be used to gather and hold information about incidents or situations that result from, give rise to or are otherwise connected with building safety risks relating to the building and giving that information to accountable persons (subsection (2)).

202. The occurrence recording system will enable residents, and other people connected with the building, to report building safety incidents relating to fire or structural safety. It will not be mandatory for residents to submit these reports, but the system will enable reports that are submitted to be captured and held in one place.

203. Gallai'r math o ddigwyddiadau y bydd system cofnodi achlysuron yn eu dal gynnwys, er enghraifft, bydredd cynnar neu annisgwyl cydrannau strwythurol, methiant strwythurol oherwydd amodau tywydd eithafol, neu ddiffygion gweithredol/goddefol amddiffyn rhag tân.

204. Mae is-adran (3) yn darparu bod rhaid sefydlu'r system cofnodi achlysuron a dechrau gweithredu cyn gynted â phosibl ar ôl y diweddaraf o'r digwyddiadau a nodir yn yr is-adran honno.

205. Rhaid i system cofnodi achlysuron gydymffurfio ag unrhyw ofynion a osodir gan Weinidogion Cymru o dan reoliadau a wneir o dan is-adran (4). Mae is-adran (5) yn rhoi enghreifftiau o'r hyn y caiff y gofynion gynnwys e.e. y digwyddiadau neu'r sefyllfaoedd y mae gwybodaeth i'w chael amdanynt, pwy all adrodd gwybodaeth, a sut y mae gwybodaeth i'w chael, ei chofnodi a'i hasesu.

Adran 39 – Adrodd i awdurdodau: dyletswydd person atebol

206. Mae is-adran (1) yn gosod dyletswydd ar berson atebol ar gyfer adeilad categori 1 a feddiennir i roi "gwybodaeth diogelwch adeiladau berthnasol" i'r awdurdod diogelwch adeiladau a'r awdurdod diogelwch tân. Rhaid i'r wybodaeth gael ei rhoi yn unol â rheoliadau a wneir o dan yr is-adran hon.

207. Ystyr "gwybodaeth diogelwch adeiladau berthnasol" yw gwybodaeth am risgiau diogelwch adeiladau sy'n ymwneud â'r rhan o'r adeilad y mae'r person atebol yn gyfrifol amdani (is-adran (2)).

208. Dylai gwybodaeth yr adroddir amdani o dan y system cofnodi achlysuron (adran 38) gynorthwyo personau atebol i gydymffurfio â'u dyletswyddau adrodd o dan yr adran hon.

209. Mae is-adran (3) yn ei gwneud yn ofynnol i reoliadau o dan is-adran (1) nodi'r wybodaeth ddiogelwch adeilad berthnasol y mae rhaid ei rhoi, yr amgylchiadau y mae rhaid ei rhoi ynddynt a'r amser erbyn pryd y mae rhaid ei rhoi. Er enghraifft, gallai hyn ymwneud â math penodol o dân neu ddigwyddiad diogelwch strwythurol sydd wedi digwydd.

210. Caiff y rheoliadau hefyd wneud darpariaeth ynghylch sut y mae rhaid rhoi'r wybodaeth (is-adran (4)).

211. Mae is-adran (5) yn darparu bod person atebol yn cyflawni trosedd os yw, heb esgus rhesymol, yn methu â chydymffurfio ag is-adran (1).

212. Os ceir person yn euog o drosedd o dan is-adran (5) mewn llys ynadon, caiff y llys osod dirwy neu gyfnod o garchar, neu'r ddau. Nid oes terfyn uchaf ar swm y ddirwy. Uchafswm y cyfnod o garchar yw 12 mis (sef y "terfyn cymwys" a nodir yn adran 224(1A) (b) o'r Cod Dedfrydu, a gynhwysir yn Neddf Dedfrydu 2020 (p. 17)).

213. Mae is-adran (7) yn gwneud darpariaeth ynghylch derbynioldeb gwybodaeth a gyflwynir i'r awdurdod diogelwch adeiladau a'r awdurdod diogelwch tân o dan yr adran hon h.y. nid yw'n dderbyniadwy mewn tystiolaeth mewn achos troseddol yn erbyn y person sy'n cyflwyno'r wybodaeth ac eithrio mewn amgylchiadau penodol.

203. The type of incidents that an occurrence recording system will capture might include, for example early or unexpected decay of structural components, structural failure due to extreme weather conditions, or defects of active/passive fire protection.

204. Subsection (3) provides that the occurrence recording system must be established and start to operate as soon as possible after the latest of the events set out in that subsection.

205. An occurrence recording system must comply with any requirements imposed by the Welsh Ministers under regulations made under subsection (4). Subsection (5) gives examples of what the requirements may include e.g. the incidents or situations about which information is to be received, who can report information, and how information is to be received, recorded and assessed.

Section 39 - Reporting to authorities: duty of accountable person

206. Subsection (1) places a duty on an accountable person for an occupied category 1 building to give "relevant building safety information" to the building safety authority and the fire safety authority. The information must be given in accordance with regulations made under this subsection.

207. "Relevant building safety information" means information about building safety risks relating to the part of the building for which the accountable person is responsible (subsection (2)).

208. Information reported under the occurrence recording system (section 38) should assist accountable persons in complying with their reporting duties under this section.

209. Subsection (3) requires regulations under subsection (1) to specify the relevant building safety information that must be given, the circumstances in which it must be given and the time by which it must be given. For example, this could relate to a particular type of fire or structural safety incident that has occurred.

210. The regulations may also make provision about how the information must be given (subsection (4)).

211. Subsection (5) provides that an accountable person commits an offence if, without reasonable excuse, they fail to comply with subsection (1).

212. If a person is found guilty of an offence under subsection (5) in a magistrates' court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 12 months (which is the "applicable limit" set out in section 224(1A) (b) of the Sentencing Code, contained in the Sentencing Act 2020 (c. 17)).

213. Subsection (7) makes provision about the admissibility of information submitted to the building safety authority and the fire safety authority under this section i.e. it is not admissible in evidence in criminal proceedings against the person submitting the information except in specific circumstances.

Strategaethau ymgysylltu â phreswylwyr

Adran 40 – Llunio ac adolygu strategaeth ymgysylltu â phreswylwyr gan brif berson atebol

214. Mae adran 40 yn gosod dyletswydd ar y prif berson atebol ar gyfer adeilad categori 1 sydd wedi ei feddiannu, i lunio strategaeth ymgysylltu â phreswylwyr a gweithredu yn unol â'r strategaeth honno. Diben y strategaeth yw hyrwyddo cyfranogiad personau perthnasol, h.y. preswylwyr sy'n oedolion a pherchnogion uned breswyl (e.e. perchnogion fflatiau), wrth wneud penderfyniadau diogelwch adeilad mewn perthynas â'r adeilad.

215. Ystyr "penderfyniad diogelwch adeilad" yw penderfyniad gan berson atebol am reoli'r adeilad a wneir mewn cysylltiad â chyflawni ei ddyletswyddau o dan y Ddeddf.

216. Gallai enghraifft o benderfyniad diogelwch adeilad fod os yw asesiad risg tân yn nodi risg tân sy'n gysylltiedig â chladin allanol yr adeilad, byddai'n ofynnol i'r prif berson atebol, o dan adran 33 (rheoli risgiau diogelwch tân), gymryd pob cam rhesymol i atal risg diogelwch tân rhag cael ei gwireddu a lleihau difrifoldeb unrhyw ddigwyddiad sy'n deillio o risg o'r fath yn cael ei gwireddu. Gallai hyn gynnwys gosod deunydd arall yn lle'r cladin allanol, er enghraifft. Byddai'n ofynnol i'r prif berson atebol yn y sefyllfa honno hyrwyddo cyfranogiad personau perthnasol wrth wneud unrhyw benderfyniadau diogelwch adeilad ynghylch amnewid y cladin allanol. Gallai hyn gynnwys amserlenni'r gwaith, yr amseroedd o'r dydd y byddai'r gwaith yn cael ei wneud, sut y gellid lleihau tarfu ar fywydau preswylwyr a pha gontractwyr a deunyddiau y dylid eu defnyddio ar y prosiect.

217. Mae is-adran (4) yn ei gwneud yn ofynnol i'r strategaeth gynnwys:

- yr wybodaeth a ddarperir i bersonau perthnasol am benderfyniadau diogelwch adeilad,
- yr agweddau ar y penderfyniadau hynny yr ymgynghorir â phersonau perthnasol amdanynt,
- y trefniadau ar gyfer ceisio barn personau perthnasol, a
- manylion sut y bydd priodoldeb y dulliau a ddefnyddir i hyrwyddo cyfranogiad yn cael ei fesur a'i adolygu.

218. Mae is-adran (5) yn darparu bod rhaid llunio'r strategaeth ymgysylltu â phreswylwyr cyn gynted â phosibl ar ôl y diweddaraf o'r digwyddiadau a nodir yn yr is-adran honno.

219. Mae is-adran (6) yn gosod dyletswydd ar y prif berson atebol, wrth lunio'r strategaeth ymgysylltu â phreswylwyr, i ymgynghori â phersonau perthnasol ac unrhyw bersonau eraill a bennir mewn rheoliadau, ynghylch cynnwys arfaethedig y strategaeth, ac i ystyried unrhyw sylwadau a wnaed mewn ymateb i'r ymgynghoriad.

220. Mae is-adran (7) yn ei gwneud yn ofynnol i'r prif berson atebol adolygu'r strategaeth ymgysylltu â phreswylwyr ar adegau a bennir mewn rheoliadau a'i hadolygu os oes angen.

Residents' engagement strategies

Section 40 - Preparation and review of residents' engagement strategy by principal accountable person

214. Section 40 places a duty on the principal accountable person for an occupied category 1 building, to prepare and act in accordance with, a residents' engagement strategy. The purpose of the strategy is to promote the participation of relevant persons, i.e. adult residents and owners of a residential unit (e.g. flat owners), in the making of building safety decisions in relation to the building.

215. A "building safety decision" means a decision by an accountable person about the management of the building made in connection with the performance of their duties under the Act.

216. An example of a building safety decision could be if a fire risk assessment identifies a fire risk connected to the external cladding of the building, the principal accountable person would be required, under section 33 (management of fire safety risks), to take all reasonable steps to prevent a fire safety risk materialising and reduce the severity of any incident resulting from such a risk materialising. This might involve replacing the external cladding with an alternative material, for example. The principal accountable person would in that scenario, be required to promote the participation of relevant persons in the making of any building safety decisions around replacing the external cladding. This could include the timescales of the works, the times of day in which the work would be undertaken, how disruption to residents' lives could be minimised and which contractors and materials should be used on the project.

217. Subsection (4) requires the strategy to contain:
- the information that will be provided to relevant persons about building safety decisions,
- the aspects of those decisions that the relevant persons will be consulted about,
- the arrangements for seeking the views of relevant persons, and
- details of how the appropriateness of the methods used for promoting participation will be measured and reviewed.

218. Subsection (5) provides that the residents' engagement strategy must be prepared as soon as possible after the latest of the events set out in that subsection.

219. Subsection (6) places a duty on the principal accountable person, when preparing the residents' engagement strategy, to consult relevant persons and any other persons specified in regulations, about the proposed contents of the strategy, and to take into account any representations made in response to the consultation.

220. Subsection (7) requires the principal accountable person to review the residents' engagement strategy at times specified in regulations and revise it if necessary.

221. Mae is-adran (8) yn darparu bod rhaid i'r prif berson atebol, o dan yr amgylchiadau a bennir mewn rheoliadau, ymgynghori â phersonau perthnasol ac unrhyw bersonau eraill a bennir mewn rheoliadau ynghylch diwygiadau arfaethedig i'r strategaeth. Mae is-adran (8) hefyd yn darparu bod rhaid i'r prif berson atebol ystyried unrhyw sylwadau a wnaed mewn ymateb i'r ymgynghoriad hwnnw.

222. Mae is-adrannau (9) a (10) yn darparu y caiff Gweinidogion Cymru wneud rheoliadau ynghylch llunio, adolygu neu ddiwygio'r strategaeth ymgysylltu â phreswylwyr ar gyfer adeilad pan fo mwy nag un person atebol ar gyfer yr adeilad, ac ynghylch cynnal ymgyngoriadau o dan adran 39 neu reoliadau a wneir oddi tani.

Adran 41 – Darparu copïau o'r strategaeth gan bersonau atebol

223. Mae adran 41 yn gosod dyletswydd ar y prif berson atebol i roi copi o'r strategaeth ymgysylltu â phreswylwyr i bob person atebol arall ar gyfer yr adeilad pan fo mwy nag un person atebol. Rhaid gwneud hyn cyn gynted â phosibl ar ôl i'r strategaeth gael ei llunio neu ei diwygio o dan adran 40.

224. O dan is-adran (1)(b), rhaid i bob person atebol ar gyfer yr adeilad roi copi o'r strategaeth ymgysylltu â phreswylwyr i bob preswylydd sy'n oedolyn a pherchennog uned breswyl yn y rhan o'r adeilad y mae'r person atebol yn gyfrifol amdani, yn ogystal ag unrhyw bersonau eraill a bennir mewn rheoliadau. Rhaid gwneud hyn cyn gynted â phosibl ar ôl i'r strategaeth gael ei llunio neu ei diwygio o dan adran 40.

225. Fodd bynnag, nid yw'n ofynnol i'r person atebol roi copi o'r strategaeth i breswylydd o dan is-adran (1)(b) os nad yw'r person atebol yn ymwybodol o'r preswylydd ond ei fod wedi cymryd pob cam rhesymol i adnabod preswylwyr sy'n oedolion yn y rhan o'r adeilad y mae'r person yn gyfrifol amdani (is-adran (2)).

Tystysgrifau adeilad

Adran 42 – Dyletswydd prif berson atebol i wneud cais am dystysgrif adeilad

226. Caiff awdurdod diogelwch adeiladau gyfarwyddo'r prif berson atebol ar gyfer adeilad categori 1 cofrestredig a feddiennir i wneud cais am dystysgrif adeilad (is-adran (2)). Rhaid i'r prif berson atebol wneud cais am dystysgrif adeilad o fewn y 28 o ddiwrnodau sy'n dechrau drannoeth y diwrnod y rhoddir y cyfarwyddyd (is-adran (3)).

227. Darperir ar gyfer yr wybodaeth a'r dogfennau y mae rhaid eu darparu i'r awdurdod diogelwch adeiladau fel rhan o'r cais am dystysgrif adeilad yn adran 43(1) ac mae'n cynnwys gwybodaeth a fydd yn cael ei phennu mewn rheoliadau.

228. Rhaid i'r prif berson atebol ar gyfer yr adeilad wneud cais i'r awdurdod diogelwch adeiladau am dystysgrif adeilad bellach o fewn pum mlynedd, gan ddechrau â'r diwrnod y cyhoeddwyd y dystysgrif adeilad ddiweddaraf (pa un a yw'r awdurdod diogelwch adeiladau yn cyfarwyddo'r prif berson atebol i wneud hynny, ai peidio) (is-adran (4)).

229. Caiff Gweinidogion Cymru, drwy reoliadau, naill ai ymestyn neu fyrhau'r cyfnod y mae rhaid gwneud cais am dystysgrif adeilad bellach o dan is-adran (4) ynddo (is-adran (9)).

221. Subsection (8) provides that the principal accountable person must, in the circumstances specified in regulations, consult relevant persons and any other persons specified in regulations about proposed revisions to the strategy. Subsection (8) also provides that the principal accountable person must take any representations made in response to that consultation into account.

222. Subsections (9) and (10) provide that the Welsh Ministers may make regulations about the preparation, review or revision of the residents' engagement strategy for a building where there is more than one accountable person for the building, and about the carrying out of consultations under section 39 or regulations made under it.

Section 41 - Provision of copies of strategy by accountable persons

223. Section 41 places a duty on the principal accountable person to give a copy of the residents' engagement strategy to every other accountable person for the building where there is more than one accountable person. This must be done as soon as possible after the strategy is prepared or revised under section 40.

224. Under subsection (1)(b), each accountable person for the building must give a copy of the residents' engagement strategy to each adult resident and owner of a residential unit in the part of the building for which the accountable person is responsible, as well as any other persons specified in regulations. This must be done as soon as possible after the strategy is prepared or revised under section 40.

225. However, the accountable person is not required to give a copy of the strategy to a resident under subsection (1)(b) if the accountable person is not aware of the resident but has taken all reasonable steps to identify adult residents of the part of the building for which the person is responsible (subsection (2)).

Building certificates

Section 42 - Duty of principal accountable person to apply for building certificate

226. A building safety authority may direct the principal accountable person for a registered and occupied category 1 building to apply for a building certificate (subsection (2)). The principal accountable person must apply for a building certificate within the 28 days beginning with the day after the day on which the direction is given (subsection (3)).

227. The information and documents that must be provided to the building safety authority as part of the application for a building certificate is provided for in section 43(1) and includes information that will be specified in regulations.

228. The principal accountable person for the building must apply to the building safety authority for a further building certificate within five years, beginning with the day on which the most recent building certificate was issued (whether the building safety authority directs the principal accountable person to do so, or not) (subsection (4)).

229. The Welsh Ministers may, through regulations, either extend or shorten the period within which an application for a further building certificate under subsection (4) must be made (subsection (9)).

230. Mae is-adran (5) yn darparu ei bod yn drosedd i fethu, heb esgus rhesymol, â chydymffurfio ag is-adrannau (3) neu (4).

231. Os ceir person yn euog o drosedd o dan is-adran (5) mewn llys ynadon, caiff y llys osod dirwy neu gyfnod o garchar, neu'r ddau. Nid oes terfyn uchaf ar swm y ddirwy. Uchafswm y cyfnod o garchar yw 12 mis (sef y "terfyn cymwys" a nodir yn adran 224(1A) (b) o'r Cod Dedfrydu, a gynhwysir yn Neddf Dedfrydu 2020 (p. 17)).

232. Os ceir person yn euog o drosedd o dan is-adran (5) yn llys y Goron, caiff y llys osod dirwy neu gyfnod o garchar, neu'r ddau. Nid oes terfyn uchaf ar swm y ddirwy. Uchafswm y cyfnod o garchar yw 2 flynedd. Gweler hefyd adran 110 (hysbysiadau cosb benodedig).

233. Mae is-adran (7) yn darparu bod trosedd bellach yn cael ei chyflawni os, ar ôl euogfarn, y parheir i beidio â chydymffurfio ag is-adran (3) neu (4) (fel y bo'n gymwys). Os y'i ceir yn euog o'r drosedd bellach, mae'r person yn agored i ddirwy am bob diwrnod y mae'r methiant yn parhau (8).

Adran 43 – Ceisiadau am dystysgrifau: gweithdrefn

234. Mae'r adran hon yn gwneud darpariaeth am y weithdrefn ar gyfer gwneud cais am dystysgrif adeilad. Rhaid i gais gynnwys:
    - copi o'r adroddiad achos diogelwch presennol,
    - gwybodaeth a bennir mewn rheoliadau ynghylch y system cofnodi achlysuron,
    - copi o'r strategaeth ymgysylltu â phreswylwyr, a
    - gwybodaeth a bennir mewn rheoliadau ynghylch yr hyn y mae pob person atebol wedi ei wneud i gyflawni eu dyletswyddau i ddarparu gwybodaeth i eraill o dan adran 47.

235. Mae is-adran (2) yn darparu y caiff Gweinidogion Cymru, drwy reoliadau, wneud darpariaeth bellach ynghylch ceisiadau am dystysgrifau adeilad. Mae is-adran (3) yn rhoi enghreifftiau o'r mathau o ddarpariaeth y caniateir eu cynnwys yn y rheoliadau e.e. sut mae'n cael ei wneud a'r ffurf y mae rhaid ei roi ynddo.

Adran 44 – Penderfynu ar geisiadau a dyroddi tystysgrifau

236. Mae'r adran hon yn gymwys pan fo'r prif berson atebol ar gyfer adeilad categori 1 yn gwneud cais am dystysgrif adeilad o dan adran 42(3) neu (4).

237. Ar ôl i'r prif berson atebol wneud cais am dystysgrif adeilad, rhaid i'r awdurdod diogelwch adeiladau asesu pa un a chydymffurfir â'r "dyletswyddau perthnasol" (a ddiffinnir yn is-adran (6)).

238. Fel rhan o'i asesiad (o dan is-adran (2)) caiff yr awdurdod diogelwch adeiladau archwilio'r adeilad.

239. Rhaid i'r awdurdod diogelwch adeiladau ddyroddi tystysgrif adeilad ar gyfer yr adeilad os yw'n fodlon y cydymffurfir â'r holl ddyletswyddau perthnasol (is-adran 3).

230. Subsection (5) provides that it is an offence to fail, without reasonable excuse, to comply with subsections (3) or (4).

231. If a person is found guilty of an offence under subsection (5) in a magistrates' court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 12 months (which is the "applicable limit" set out in section 224(1A) (b) of the Sentencing Code, contained in the Sentencing Act 2020 (c. 17)).

232. If a person is found guilty of an offence under subsection (5) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years. See also section 110 (fixed penalty notices).

233. Subsection (7) provides that a further offence is committed if, after conviction, subsection (3) or (4) (as applicable) continue not to be complied with. If found guilty of the further offence the person is liable to a fine for each day on which the failure continues (8).

Section 43 - Applications for certificates: procedure

234. This section make provision about the procedure for applying for a building certificate. An application must include:

- a copy of the current safety case report,
- information specified in regulations about the occurrence recording system,
- a copy of the resident engagement strategy, and
- information specified in regulations on what each accountable person has done to meet their duties to provide information to others under section 47.

235. Subsection (2) provides that the Welsh Ministers may, in regulations, make further provision about applications for building certificates. Subsection (3) gives examples of the types of provision that can be included in the regulations e.g. how it is made and the form in which it must be given.

Section 44 - Determination of applications and issues of certificates

236. This section applies where the principal accountable person for a category 1 building makes an application for a building certificate under section 42(3) or (4).

237. Once the principal accountable person has applied for a building certificate, the building safety authority must assess whether the "relevant duties" (defined in subsection (6)) are being complied with.

238. As part of its assessment (under subsection (2)) the building safety authority may inspect the building.

239. The building safety authority must issue a building certificate for the building if it is satisfied that all the relevant duties are being complied with (subsection 3).

240. Os nad yw'r awdurdod diogelwch adeiladau wedi ei fodloni y cydymffurfir â'r holl ddyletswyddau perthnasol, rhaid iddo wrthod y cais a rhoi hysbysiad o wrthodiad i'r prif berson atebol (is-adran (4)). Fodd bynnag, mae hyn yn ddarostyngedig i is-adran (5). Wrth benderfynu ar y cais, os yw'r awdurdod diogelwch adeiladau yn ystyried na chydymffurfir â dyletswydd berthnasol ond mae'n ystyried y gellir unioni'r mater yn brydlon, gall gyhoeddi hysbysiad i'r prif berson atebol. Rhaid i'r hysbysiad gynnwys disgrifiad byr o'r methiant a nodi cyfnod i'w unioni. Os yw'r methiant yn cael ei unioni o fewn y cyfnod hwnnw, caiff yr awdurdod ddyroddi tystysgrif adeilad.

241. Os rhoddir hysbysiad gwrthodiad, rhaid i hyn gynnwys gwybodaeth am yr hawl i apelio (is-adran (7)).

242. Pan fo'r awdurdod diogelwch adeiladau yn dod yn ymwybodol o ddiffyg cydymffurfedd â dyletswydd, byddai ganddo'r opsiwn o gyhoeddi hysbysiad cydymffurfio o dan adran 96.

243. Caiff Gweinidogion Cymru, drwy reoliadau, wneud darpariaeth bellach ynglŷn â thystysgrifau neu hysbysiadau adeilad, a chaiff hyn gynnwys, er enghraifft, y ffurf, y cynnwys, a'r modd y dylid eu rhoi (is-adrannau (8) a (9)).

Adran 45 – Dyletswydd prif berson atebol i arddangos tystysgrif a gwybodaeth gysylltiedig

244. Mae is-adran (1) yn gosod dyletswydd ar y prif berson atebol ar gyfer adeilad categori 1 y mae adran 42 yn gymwys iddo i arddangos:
- copi o dystysgrif adeilad ddiweddaraf yr adeilad,
- hysbysiad sy'n cydymffurfio ag is-adran (4) am y personau atebol ar gyfer yr adeilad ac unrhyw reolwr mesurau arbennig ar gyfer yr adeilad, ac
- os oes hysbysiad cydymffurfio perthnasol (a ddiffinnir yn is-adran (9)), fel copi o'r datganiad o dan adran 96(4) sy'n crynhoi'r hysbysiad.

245. Rhaid i'r wybodaeth hon gael ei harddangos gyda'i gilydd mewn lle amlwg yn yr adeilad.

246. Mae is-adrannau (2) a (3) yn darparu, os oes gorchymyn mesurau arbennig mewn grym, bod rhaid i'r prif berson atebol sicrhau nad oes unrhyw dystysgrif adeilad yn cael ei harddangos yn yr adeilad. Yn lle hynny, am y cyfnod y mae'r gorchymyn mesurau arbennig mewn grym, rhaid arddangos yr wybodaeth a ganlyn:
- hysbysiad sy'n cydymffurfio ag is-adran (4) am y personau atebol ar gyfer yr adeilad ac unrhyw reolwr mesurau arbennig ar gyfer yr adeilad, ac
- os oes hysbysiad cydymffurfio perthnasol (a ddisgrifir yn is-adran (9)) a roddwyd i berson atebol nad yw'r gorchymyn mesurau arbennig yn gymwys iddo, gopi o'r datganiad o dan adran 96(4) sy'n crynhoi'r hysbysiad.

247. Mae is-adran (5) yn darparu ei bod yn drosedd i'r prif berson atebol fethu, heb esgus rhesymol, â chydymffurfio ag is-adrannau (1) neu (3).

248. Os ceir person yn euog o drosedd o dan is-adran (5) yn llys y Goron, caiff y llys osod dirwy neu gyfnod o garchar, neu'r ddau. Nid oes terfyn uchaf ar swm y ddirwy. Uchafswm y cyfnod o garchar yw 2 flynedd.

240. If the building safety authority is not satisfied that all of the relevant duties are being complied with, it must refuse the application and give the principal accountable person notice of the refusal (subsection (4)). However, this is subject to subsection (5). When determining the application, if the building safety authority considers that a relevant duty is not being complied with, but it considers that the matter can be remedied promptly, it can issue a notice to the principal accountable person. The notice must contain a brief description of the failure and specify a period for remedying it. If the failure is remedied within that period, the authority may issue a building certificate.

241. If a notice of refusal is given this must include information about the right to appeal (subsection (7)).

242. Where the building safety authority becomes aware of non-compliance with a duty, they would have the option of issuing a compliance notice under section 96.

243. The Welsh Ministers may, by regulations, make further provision about building certificates or notices, and this may include, for example the form, content, and the way in which they are to be given (subsections (8) and (9)).

Section 45 Duty of principal accountable person to display certificate and related information

244. Subsection (1) places a duty on the principal accountable person for a category 1 building to which section 42 applies to display:
- a copy of the building's most recent building certificate,
- a notice that complies with subsection (4) about the accountable persons for the building and any special measure manager for the building, and
- if there is a relevant compliance notice (defined in subsection (9)), as copy of the statement under section 96(4) summarising the notice.

245. This information must be displayed together, in a conspicuous place in the building.

246. Subsections (2) and (3) provide that, if a special measures order is in force, the principal accountable person must ensure that no building certificate is displayed in the building. Instead, for the period during which the special measures order is in force, the following information must be displayed:
- a notice that complies with subsection (4), about the accountable persons for the building and any special measures manager for the building, and
- if there is a relevant compliance notice (defined in subsection (9)) that was given to an accountable person to whom the special measures order does not apply, a copy of the statement under section 96(4) summarising the notice.

247. Subsection (5) provides that it is an offence for the principal accountable person, without reasonable excuse, to fail to comply with subsections (1) or (3).

248. If a person is found guilty of an offence under subsection (5) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years.

249. Os ceir person yn euog o drosedd o dan is-adran (5) yn llys y Goron, caiff y llys osod dirwy neu gyfnod o garchar, neu'r ddau. Nid oes terfyn uchaf ar swm y ddirwy. Uchafswm y cyfnod o garchar yw 2 flynedd. Gweler hefyd adran 110 (hysbysiadau cosb benodedig).

250. Mae is-adran (7) yn darparu bod trosedd bellach yn cael ei chyflawni os, ar ôl euogfarn, y parheir i beidio â chydymffurfio ag is-adran (1) neu (3) (fel y bo'n gymwys). Os y'i ceir yn euog o'r drosedd bellach, mae'r person yn agored i ddirwy am bob diwrnod y mae'r methiant yn parhau (is-adran (8)).

PENNOD 6 – YMGYSYLLTU Â PHRESWYLWYR ADEILADAU CATEGORI 2 A FEDDIENNIR

Adran 46 – Adeiladau categori 2: strategaethau ymgysylltu â phreswylwyr

251. Mae'r adran hon yn rhoi pŵer i Weinidogion Cymru wneud rheoliadau i wneud darpariaeth ynghylch strategaethau ar gyfer cynnwys preswylwyr adeiladau categori 2 a feddiennir mewn penderfyniadau diogelwch adeilad. Mae'r pŵer gwneud rheoliadau yn caniatáu i Weinidogion Cymru wneud darpariaethau sy'n cyfateb, neu sy'n debyg i'r darpariaethau a nodir eisoes yn adrannau 40 ac 41 ar gyfer adeiladau categori 1, neu sy'n cyfateb, neu sy'n debyg i'r ddarpariaeth y caniateir ei gwneud drwy reoliadau o dan yr adrannau hynny.

PENNOD 7 – GWYBODAETH A CHWYNION

Dyletswyddau i gadw a darparu gwybodaeth a dogfennau

Adran 47 – Dyletswydd i roi gwybodaeth a dogfennau i bersonau atebol

252. Mae'r adran hon yn gosod dyletswydd ar bersonau perthnasol i roi gwybodaeth neu ddogfen i berson atebol pan fo'r meini prawf yn is-adran (3) wedi eu bodloni.

253. Nodir ystyr person perthnasol at ddibenion yr adran hon yn is-adran (2).

254. Mae is-adran (3)(a) yn darparu bod rhaid i'r wybodaeth neu'r ddogfen y gofynnir amdani gan berson atebol fod yn angenrheidiol iddo allu cydymffurfio â gofyniad o dan y Ddeddf neu reoliadau a wneir oddi tani. Mae is-adran (3)(b) yn darparu bod rhaid i gais o dan yr adran hon fod yn ysgrifenedig a nodi manylion yr hyn y mae rhaid i gais ysgrifenedig ei gynnwys. Er mwyn i'r ddyletswydd yn is-adran (1) fod yn gymwys, rhaid iddo fod yn rhesymol i'r person perthnasol roi'r wybodaeth neu'r ddogfen i'r person atebol (is-adran (3)(c)).

255. Mae is-adran (3)(d) yn golygu ni all y person atebol ofyn am wybodaeth o dan is-adran (1) os gall y person atebol ofyn am yr un wybodaeth oddi wrth y person perthnasol o dan y dyletswyddau rhannu gwybodaeth a osodir ar breswylwyr a pherchnogion gan adrannau 54(4) neu 55(4).

256. Ni fydd datgelu gwybodaeth neu ddogfen o dan yr adran hon yn torri unrhyw rwymedigaeth gyfrinachedd sy'n ddyledus gan y person sy'n gwneud y datgeliad, neu unrhyw gyfyngiad arall ar ddatgelu gwybodaeth neu ddogfen; ond yn rhinwedd adran 183A o Ddeddf Diogelu Data 2018 bydd yn ddarostyngedig i ofynion deddfwriaeth diogelu data sy'n ymwneud â phrosesu data personol.

257. Mae is-adran (6) yn darparu bod cyfeiriadau at berson atebol yn yr adran hon yn cynnwys personau a drinnir fel person atebol o dan adran 36.

249. If a person is found guilty of an offence under subsection (5) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years. See also section 110 (fixed penalty notices).

250. Subsection (7) provides that a further offence is committed if, after conviction, subsection (1) or (3) (as applicable) continue not to be complied with. If found guilty of the further offence the person is liable to a fine for each day on which the failure continues (subsection (8)).

CHAPTER 6 - ENGAGEMENT WITH RESIDENTS OF OCCUPIED CATEGORY 2 BUILDINGS

Section 46 - Category 2 buildings: residents' engagement strategies

251. This section gives the Welsh Ministers a regulation-making power to make provision about strategies for involving residents of occupied category 2 buildings in building safety decisions. The regulation making power enables the Welsh Ministers to make provisions that correspond to, or are similar to, the provision already set out in sections 40 and 41 for category 1 buildings, or to the provision that may be made by regulations under those sections.

CHAPTER 7 - INFORMATION AND COMPLAINTS

Duties to keep and provide information and documents

Section 47 - Duty to give information and documents to accountable persons

252. This section places a duty on relevant persons to give information or a document to an accountable person where the criteria in subsection (3) are satisfied.

253. A relevant person for the purposes of this section is set out in subsection (2).

254. Subsection (3)(a) provides that the information or document requested by an accountable person must be necessary for them to be able to comply with a requirement under the Act or regulations made under it. Subsection (3)(b) provides that a request under this section must be in writing and details what a written request must contain. For the duty in subsection (1) to apply, it must be reasonable for the relevant person to give the information or document to the accountable person (subsection (3)(c)).

255. Subsection (3)(d) means that the accountable person cannot request information under subsection (1) if the accountable person can request the same information from the relevant person under the information sharing duties placed on residents and owners by sections 54(4) or 55(4).

256. A disclosure of information or a document under this section will not breach any obligation of confidence owed by the person making the disclosure, or any other restriction on the disclosure of information or a document; but by virtue of section 183A of the Data Protection Act 2018 it will be subject to the requirements of data protection legislation relating to the processing of personal data.

257. Subsection (6) provides that references to an accountable person in this section includes persons treated as an accountable person under section 36.

258. Enghraifft: Mae rhydd-ddeiliad, nad yw wedi ei nodi fel person atebol neu brif berson atebol ar gyfer yr adeilad, yn meddu ar y planiau dylunio gwreiddiol a'r strategaeth dân wreiddiol ar gyfer yr adeilad. Mae angen i'r prif lesddeiliad, sydd wedi ei nodi fel y prif berson atebol, asesu'r dogfennau hyn fel rhan o'r gofynion arno i lunio adroddiad achos diogelwch. O dan yr adran hon caiff y prif lesddeiliad ofyn am y dogfennau perthnasol oddi wrth y rhydd-ddeiliad pan fo'r meini prawf yn is-adran (3) wedi eu bodloni. Pan fo toriad o'r ddyletswydd yn is-adran (1) caniateir cymryd camau gorfodi o dan Ran 3.

Adran 48 – Dyletswydd person atebol i gadw gwybodaeth a dogfennau

259. Mae is-adran (1) yn gosod dyletswydd ar Weinidogion Cymru i wneud rheoliadau sy'n ei gwneud yn ofynnol i berson atebol ar gyfer adeilad rheoleiddiedig gadw gwybodaeth berthnasol neu ddogfennau perthnasol a bennir yn y rheoliadau. Mae gwybodaeth a dogfennau yn "perthnasol" os ydynt yn ymwneud â rhan o adeilad y mae person atebol yn gyfrifol amdani (gweler is-adran (6)(b)).

260. Pwrpas y ddarpariaeth hon yw helpu i sicrhau bod gan bersonau atebol fynediad at yr wybodaeth sydd ei hangen arnynt i asesu a rheoli risgiau diogelwch adeiladau mewn adeilad. Bydd hyn yn cynnwys gwybodaeth ddiogelwch bwysig a fydd yn rhan o "edau euraidd" o wybodaeth am yr adeilad. Mewn perthynas â diogelwch adeiladau, mae'r term "edau euraidd" yn derm a ddefnyddiwyd yn yr Adolygiad Annibynnol o Reoliadau Adeiladau ac Adroddiad Diogelwch Tân i ddisgrifio'r cofnod o wybodaeth ddiogelwch am yr adeilad.

261. Caiff y rheoliadau a wneir o dan is-adran (1) hefyd gynnwys darpariaeth ynghylch, er enghraifft:
- y cyfnod y mae rhaid cadw gwybodaeth neu ddogfennau,
- sut y mae rhaid cadw'r wybodaeth neu'r dogfennau, ac
- y ffurf y mae rhaid eu cadw ynddi.

262. Caiff y rheoliadau gynnwys amodau neu eithriadau i'r gofynion hyn (is-adran (3)).

263. Mae is-adran (4) yn darparu, os nad oes gan berson atebol yr wybodaeth ofynnol neu ddogfen ofynnol, rhaid iddo eu cael oni bai nad yw'n ymarferol gwneud hynny. Rhaid i'r person atebol hefyd sicrhau, cyn belled ag y bo modd, bod yr wybodaeth yn gywir ac yn cael ei diweddaru (is-adran (5)).

264. Caiff rheoliadau a wneir o dan yr adran hon osod gofynion ar bersonau sy'n cael eu trin fel personau atebol o dan adran 36.

Adran 49 – Dyletswydd person atebol i roi gwybodaeth a dogfennau i bersonau eraill

265. Mae is-adran (1) yn gosod dyletswydd ar Weinidogion Cymru i wneud rheoliadau ynghylch rhannu gwybodaeth berthnasol a dogfennau perthnasol gan bersonau atebol. Mae gwybodaeth a dogfennau yn "perthnasol" os ydynt yn ymwneud â rhan o adeilad y mae person atebol yn gyfrifol amdani (gweler is-adran (7)(a)).

258. Example: A freeholder, who for the building is not identified as an accountable person or principal accountable person, possesses the original design plans and fire strategy for the building. The head lessee, who is identified as the principal accountable person, needs to assess these documents as part of their requirements to prepare a safety case report. Under this section the head lessee can request the relevant documents from the freeholder where the criteria in subsection (3) are satisfied. Where there is a breach of the duty in subsection (1) enforcement action can be taken under Part 3.

Section 48 - Duty of accountable person to keep information and documents

259. Subsection (1) places a duty on the Welsh Ministers to make regulations requiring an accountable person for a regulated building to keep relevant information or relevant documents specified in the regulations. Information and documents are "relevant" if they relate to a part of a building for which an accountable person is responsible (see subsection (6)(b)).

260. The purpose of this provision is to help ensure that accountable persons have access to the information they need to assess and manage building safety risks in a building. This will include important safety information that will form part of a "golden thread" of information about the building. In relation to building safety the term "golden thread" is a term that was used in the Independent Review of Building Regulations and Fire Safety Report to describe the record of safety information about the building.

261. The regulations made under subsection (1) may also include provision about, for example:
- the duration for which information or documents must be kept,
- how the information or documents must be kept, and
- the format in which they must be kept.

262. The regulations may include conditions or exceptions to these requirements (subsection (3)).

263. Subsection (4) provides that if an accountable person does not have the required information or a required document, they must obtain them unless it is not practicable to do so. The accountable person must also ensure, so far as possible, that the information is accurate and kept up to date (subsection (5)).

264. Regulations made under this section may place requirements on persons treated as accountable persons under section 36.

Section 49 - Duty of accountable person to give information and documents to other persons

265. Subsection (1) places a duty on the Welsh Ministers to make regulations about the sharing of relevant information and relevant documents by accountable persons. Information and documents are "relevant" if they relate to a part of a building for which an accountable person is responsible (see subsection (7)(a)).

266. O dan is-adran (2), caiff y rheoliadau ei gwneud yn ofynnol i berson atebol roi gwybodaeth berthnasol neu ddogfennau perthnasol a bennir yn y rheoliadau i'r awdurdod diogelwch adeiladau, yr awdurdod diogelwch tân, personau atebol eraill, preswylwyr, perchnogion unedau preswyl yn yr adeilad, neu unrhyw berson arall a bennir yn y rheoliadau. Er enghraifft, gallai'r rheoliadau ei gwneud yn ofynnol i gopïau o'r asesiadau risg ar gyfer yr adeilad gael eu rhannu â phobl benodol mewn amgylchiadau penodol.

267. Mae is-adran (3) yn darparu y caiff y rheoliadau bennu pryd a sut y mae rhaid rhoi'r wybodaeth neu'r dogfennau, a'r fformat y mae rhaid iddynt gael eu rhoi ynddo.

268. Caiff y rheoliadau ddarparu ei bod yn ofynnol i'r person atebol ddarparu rhywfaint neu'r cyfan o'r wybodaeth neu ddogfennau dim ond os gofynnwyd amdanynt. Caiff y rheoliadau bennu sut y mae rhaid gwneud ceisiadau i'r person atebol am ddogfen neu wybodaeth (is-adran (5)).

269. Os yw'r rheoliadau yn gofyn i wybodaeth neu ddogfennau gael eu darparu i awdurdod diogelwch adeiladau neu awdurdod diogelwch tân, caiff y rheoliadau hefyd wneud darpariaeth ynghylch derbynioldeb yr wybodaeth honno neu'r dogfennau hynny mewn achosion troseddol.

270. Caiff rheoliadau a wneir o dan yr adran hon osod gofynion ar bersonau sy'n cael eu trin fel personau atebol o dan adran 36.

Adran 50 – Dyletswydd i roi gwybodaeth a dogfennau wrth i berson atebol newid

271. Mae'r adran hon yn rhoi pŵer i Weinidogion Cymru wneud rheoliadau sy'n ei gwneud yn ofynnol i berson atebol ymadawol ar gyfer adeilad rheoledig roi gwybodaeth benodol neu ddogfennau penodedig sy'n ymwneud â'r rhan o'r adeilad yr oedd y person atebol ymadawol yn gyfrifol amdani, i bersonau penodedig. Mae "perthnasol" wedi ei ddiffinio yn is-adran (9).

272. Mae person atebol ymadawol yn berson atebol sydd wedi rhoi'r gorau i fod yn gyfrifol am y cyfan neu ran o adeilad rheoleiddiedig.

273. Mae'r personau y caiff y rheoliadau ei gwneud yn ofynnol i berson atebol ymadawol roi gwybodaeth neu ddogfennau iddynt yn "olynydd" (a ddiffinnir yn is-adran (1)(b)), yr awdurdod diogelwch adeiladau ar gyfer yr adeilad a'r awdurdod diogelwch tân ar gyfer yr adeilad. Ystyr "olynydd" yw person sydd, yn syth ar ôl i berson atebol ymadawol roi'r gorau i fod yn gyfrifol am y cyfan neu ran o adeilad rheoleiddiedig, yn cymryd cyfrifoldeb, fel person atebol, am y cyfan neu'r rhan honno o'r adeilad (yn dibynnu ar yr hyn yr oedd y person atebol ymadawol yn gyfrifol amdano).

274. Caiff y rheoliadau hefyd wneud darpariaeth ynghylch pryd, sut ac ym mha ffurf y mae rhaid rhoi'r wybodaeth neu ddogfennau ynddo. Cânt wneud y gofynion a gynhwysir ynddynt yn ddarostyngedig i amodau, a gallant ddarparu ar gyfer eithriadau o'r gofynion hynny (is-adrannau (3) a (4)).

266. Under subsection (2), the regulations may require an accountable person to give relevant information or relevant documents specified in the regulations to the building safety authority, the fire safety authority, other accountable persons, residents, owners of residential units in the building, or any other person specified in the regulations. For example, the regulations could require copies of the risk assessments for the building to be shared with certain people in certain circumstances.

267. Subsection (3) provides that the regulations may specify when and how the information or documents must be given, and the format in which they must be given.

268. The regulations may provide that the accountable person is required to provide some or all the information or documents only if it has been requested. The regulations may specify how requests to the accountable person for a document or information must be made (subsection (5)).

269. If information or documents are required by the regulations to be provided to a building safety authority or a fire safety authority, the regulations may also make provision about the admissibility of that information or those documents in criminal proceedings.

270. Regulations made under this section may place requirements on persons treated as accountable persons under section 36.

Section 50 - Duty to give information and documents on change of accountable person

271. This section provides the Welsh Ministers with a power to make regulations requiring an outgoing accountable person for a regulated building to give specified information or specified documents relating to the part of the building for which the outgoing accountable person was responsible, to specified persons. "Relevant" is defined in subsection (9).

272. An outgoing accountable person is an accountable person who has stopped being responsible for all or part of a regulated building.

273. The persons to whom the regulations may require an outgoing accountable person to give information or documents are a "successor" (defined in subsection (1)(b)), the building safety authority for the building and the fire safety authority for the building. "Successor" means a person who, immediately after an outgoing accountable person stop being responsible for all or part of a regulated buildings, takes over responsibility, as an accountable person, for all or that part of the building (depending on what the outgoing accountable person was responsible for).

274. The regulations may also make provision about when, how and in which form the information or documents must be given. They may make the requirements they contain subject to conditions, and they may provide for exceptions from those requirements (subsections (3) and (4)).

275. Pwrpas y ddarpariaeth hon yw helpu i sicrhau bod gan y person atebol olynol gofnod cyflawn a chywir o wybodaeth am y rhan o'r adeilad y mae wedi dod yn gyfrifol amdani, a all gynnwys dogfennau hanesyddol, a fydd yn ei helpu i asesu a rheoli risgiau diogelwch yr adeilad a chydymffurfio â'i ddyletswyddau.

276. Mae is-adran (5) yn darparu ei bod yn drosedd i fethu, heb esgus rhesymol, â chydymffurfio â'r gofynion a osodir gan reoliadau a wneir o dan yr adran hon.

277. Os ceir person yn euog o drosedd o dan is-adran (5) mewn llys ynadon, caiff y llys osod dirwy neu gyfnod o garchar, neu'r ddau. Nid oes terfyn uchaf ar swm y ddirwy. Uchafswm y cyfnod o garchar yw 12 mis (sef y "terfyn cymwys" a nodir yn adran 224(1A) (b) o'r Cod Dedfrydu, a chynhwysir y Cod Dedfrydu yn Neddf Dedfrydu 2020 (p. 17)).

278. Os ceir person yn euog o drosedd o dan is-adran (5) yn llys y Goron, caiff y llys osod dirwy neu gyfnod o garchar, neu'r ddau. Nid oes terfyn uchaf ar swm y ddirwy. Uchafswm y cyfnod o garchar yw 2 flynedd (is-adran (6)).

279. Mae is-adran (7) yn darparu bod trosedd bellach yn cael ei chyflawni os yw person yn parhau i fethu â chydymffurfio â'r gofyniad hwnnw, ar ôl ei gael yn euog o fethu â chydymffurfio â gofyniad y rheoliadau.

280. Byddai trosedd o dan is-adran (7) yn cael ei rhoi ar brawf mewn llys ynadon. Os y'i ceir yn euog o'r drosedd bellach, caniateir codi dirwy ar y person am bob diwrnod y mae'r methiant yn parhau (is-adran (8)). Mae'r raddfa safonol o ddirwyon wedi ei nodi yn adran 122 o Ddeddf Dedfrydu 2020.

Cwynion

Adran 51 – Adeiladau categori 1: dyletswydd prif berson atebol i weithredu system gwyno

281. Mae'r adran hon yn ei gwneud yn ofynnol i'r prif berson atebol ar gyfer adeilad categori 1 a feddiennir sefydlu a gweithredu system ar gyfer ymchwilio i "cwynion perthnasol".

282. Diffinnir "cwyn berthnasol" yn is-adran (2) fel cwyn sy'n ymwneud â risg diogelwch adeilad (fel y'i diffinnir yn adran 27) sy'n ymwneud â'r adeilad neu â chyflawni gan berson atebol ar gyfer yr adeilad unrhyw ddyletswydd o dan y Ddeddf neu reoliadau a wneir oddi tani. Mewn perthynas ag adeilad categori 1, ystyr "risg diogelwch adeilad" yw risg diogelwch tân neu risg diogelwch strwythurol.

283. Diben y ddarpariaeth hon yw sicrhau bod preswylwyr ac eraill yn gallu gwneud cwynion os yw'r gŵyn yn "perthnasol". Nod y ddarpariaeth yw creu mecanwaith ffurfiol i breswylwyr leisio eu cwynion perthnasol ac i sicrhau yr ymchwilir ac yr eir i'r afael â'r cwynion hyn yn brydlon. Mae'r gofyniad hwn yn hanfodol i feithrin diwylliant o atebolrwydd a thryloywder wrth reoli diogelwch adeiladau.

275. The purpose of this provision is to help to ensure that the incoming accountable person has a complete and accurate record of information about the part of the building for which they have become responsible, which may include historical documents, that will help them to assess and manage the building safety risks and comply with their duties.

276. Subsection (5) provides that it is an offence to fail, without reasonable excuse, to comply with requirements imposed by regulations made under this section.

277. If a person is found guilty of an offence under subsection (5) in a magistrates' court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 12 months (which is the "applicable limit" set out in section 224(1A) (b) of the Sentencing Code; the Sentencing Code is contained in the Sentencing Act 2020 (c. 17)).

278. If a person is found guilty of an offence under subsection (5) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years (subsection (6)).

279. Subsection (7) provides that a further offence is committed if, after having been convicted of failing to comply with a requirement of the regulations, a person continues to fail to comply with that requirement.

280. An offence under subsection (7) would be tried in a magistrates' court. If found guilty of the further offence the person may be fined for each day on which the failure continues (subsection (8)). The standard scale of fines is set out in section 122 of the Sentencing Act 2020.

Complaints

Section 51 - Category 1 buildings: duty of principal accountable person to operate complaints system

281. This section requires the principal accountable person for an occupied category 1 building to establish and operate a system for the investigation of "relevant complaints".

282. A "relevant complaint" is defined in subsection (2) as a complaint that relates to a building safety risk as (defined in section 27) relating to the building or to the performance by an accountable person for the building of any duty under the Act or regulations made under it. In relation to a category 1 building, "building safety risk" means a fire safety risk or a structural safety risk.

283. The purpose of this provision is to ensure that residents and others can raise complaints if the complaint is "relevant". The provision aims to create a formal mechanism for residents to voice their relevant complaints and to ensure that these complaints are investigated and addressed promptly. This requirement is crucial to fostering a culture of accountability and transparency in building safety management.

284. Mae is-adran (4) yn rhoi pŵer i Weinidogion Cymru wneud darpariaeth ynglŷn â sefydlu a gweithredu system gwyno, megis, ond heb fod yn gyfyngedig i, ddarparu pwy all wneud cwyn, sut y gellir gwneud cwyn, y ffordd y mae rhaid ystyried cwyn, a galluogi neu ei gwneud yn ofynnol i gŵyn gael ei chyfeirio at yr awdurdod diogelwch adeiladau ar gyfer yr adeilad. Er mai'r prif berson atebol sydd piau'r gofyniad ar gyfer sefydlu a gweithredu'r system gwynion, mewn adeiladau y mae sawl person atebol ar eu cyfer, mae'n ofynnol i'r personau atebol hynny weithio gyda'r prif berson atebol fel rhan o'u dyletswyddau cydweithredu a chydlynu o dan adran 68. Mae personau atebol yn parhau i fod yn gyfrifol am unioni unrhyw faterion sy'n ymwneud â chyflawni eu dyletswyddau o dan y Ddeddf neu faterion y maent yn gyfrifol amdanynt o dan y Ddeddf.

285. Enghraifft: Mae preswylydd mewn adeilad categori 1 yn sylwi bod yr allanfeydd tân yn aml yn cael eu blocio gan ddeunyddiau adeiladu sy'n cael eu gadael gan gontractwyr. Mae'r preswylydd yn codi'r pryder hwn yn anffurfiol â'r prif berson atebol, ond ni chymerir unrhyw gamau. O dan yr adran hon, gallai'r preswylydd uwchgyfeirio'r pryder hwn yn gŵyn ffurfiol drwy'r system gwyno sefydledig. Gallai'r rheoliadau ei gwneud yn ofynnol i'r prif berson atebol ymchwilio i'r gŵyn, cymryd camau angenrheidiol i fynd i'r afael â'r mater os yw'r gŵyn yn cael ei chadarnhau a darparu ymateb amserol i'r preswylydd. Y bwriad yw sicrhau yr eir i'r afael yn brydlon â materion diogelwch adeiladau, ac yr ymdrinnir yn briodol â chwynion preswylwyr.

Adran 52 – Adeiladau categori 2 a chategori 3: dyletswydd personau atebol i drefnu ystyriaeth o gwynion

286. Mae is-adran (1) yn darparu y caiff Gweinidogion Cymru wneud rheoliadau er mwyn ei gwneud yn ofynnol i bersonau atebol ar gyfer adeiladau categori 2 a feddiennir ac adeiladau categori 3 a feddiennir wneud trefniadau ar gyfer ystyried "cwynion perthnasol" a rhoi effaith iddynt.

287. Diffinnir "cwyn berthnasol" yn is-adran (2) fel cwyn sy'n ymwneud â risg diogelwch adeilad (fel y'i diffinnir yn adran 28) sy'n ymwneud â'r adeilad neu â chyflawni gan berson atebol ar gyfer adeilad unrhyw ddyletswydd o dan y Ddeddf neu reoliadau a wneir oddi tani. Mewn perthynas ag adeilad categori 3, ystyr "risg diogelwch adeilad" yw risg diogelwch tân yn unig. Mewn perthynas ag adeilad categori 2, ystyr "risg diogelwch adeilad" yw risg diogelwch tân neu risg diogelwch strwythurol.

288. Caiff rheoliadau a wneir o dan yr adran hon, yn benodol, wneud y ddarpariaeth a nodir yn is-adran (3). Y bwriad fyddai galluogi preswylwyr mewn adeiladau categori 2 a chategori 3 i leisio eu cwynion ac i sicrhau yr ymchwilir iddynt ac yr eir i'r afael â hwy yn brydlon.

289. Enghraifft: Mae preswylydd adeilad categori 2 yn sylwi nad yw dyfais cau drws tân mewn ardal gymunedol yn gweithio, gan greu risg diogelwch tân. Ar ôl i'r preswylydd godi'r mater yn anffurfiol sawl gwaith gyda'i berson atebol, mae'r preswylydd yn teimlo bod ei berson atebol yn anwybyddu'r mater. Gallai rheoliadau a wneir o dan yr adran hon ganiatáu i'r preswylydd godi'r mater fel cwyn ffurfiol. Caiff y rheoliadau ei gwneud yn ofynnol i'r person atebol ystyried y gŵyn o fewn cyfnod penodol.

284. Subsection (4) provides the Welsh Ministers with a power to make provision about the establishment and operation of a complaints system, such as, but not limited to, providing who can make a complaint, how a complaint can be made, the way in which a complaint must be considered, and enabling or requiring a complaint to be referred to the building safety authority for the building. Though the requirement for establishing and operating the complaints system sits with the principal accountable person, in buildings for which there are multiple accountable persons, those accountable persons are required to work with the principal accountable person as part of their co-operation and co-ordination duties under section 68. Accountable persons remain responsible for putting right any issues relating to the performance of their duties under the Act or matters for which they are responsible under the Act.

285. Example: A resident in a category 1 building notices that the fire exits are frequently blocked by construction materials left by contractors. The resident raises this concern informally with the principal accountable person, but no action is taken. Under this section, the resident could escalate this concern into a formal complaint through the established complaints system. The principal accountable person could be required by the regulations to investigate the complaint, take necessary actions to address the issue if the complaint is upheld and provide a timely response to the resident. The intention is to ensure that building safety issues are promptly addressed, and residents' complaints are dealt with appropriately.

Section 52 - Category 2 and category 3 buildings: duty of accountable persons to arrange consideration of complaints

286. Subsection (1) provides that regulations may be made by the Welsh Ministers to require accountable persons for occupied category 2 buildings and occupied category 3 buildings to make and give effect to arrangements for the consideration of "relevant complaints".

287. A "relevant complaint" is defined in subsection (2) as a complaint that relates to a building safety risk (as defined in section 28) relating to the building, or to the performance by an accountable person for the building of any duty under the Act or regulations made under it. In relation to a category 3 building, "building safety risk" means only a fire safety risk. In relation to a category 2 building, "building safety risk" means a fire safety risk or a structural safety risk.

288. Regulations made under this section may in particular, make the provision set out in subsection (3). The intention would be to enable residents in category 2 and category 3 buildings to voice their complaints and to ensure that they are investigated and addressed promptly.

289. Example: A resident of a category 2 building notices a self-door closer on a fire door in a communal area is not working, thereby creating a fire safety risk. After the resident raises the issue informally several times to their accountable person the resident feels their accountable person is ignoring the issue. Regulations made under this section could allow the resident to raise the issue as a formal complaint. The regulations may require the accountable person to consider the complaint within a certain period.

Adran 53 – Cwynion i awdurdodau diogelwch adeiladau

290. Mae is-adran (1) yn ei gwneud yn ofynnol i bob awdurdod diogelwch adeiladau sefydlu a gweithredu system gwynion ar gyfer ymchwilio i "cwynion perthnasol" a wneir neu a gyfeirir ato. Diffinnir "cwyn berthnasol" yn is-adran (2), fel cwyn sy'n ymwneud â risg diogelwch adeilad mewn perthynas ag adeilad rheoleiddiedig (fel y'i diffinnir yn adran 28), cyflawni gan berson atebol ar gyfer yr adeilad unrhyw ddyletswydd o dan y Ddeddf neu reoliadau a wneir oddi tani, neu gyflawni gan reolwr mesurau arbennig ar gyfer adeilad categori 1 unrhyw swyddogaeth a roddwyd i'r rheolwr gan orchymyn mesurau arbennig (gweler adran 109).

291. Mae is-adran (3) yn rhoi pŵer i Weinidogion Cymru wneud rheoliadau ynghylch sefydlu a gweithredu systemau cwyno, gydag is-adran (4) yn rhoi enghreifftiau o'r math o ddarpariaeth y caniateir ei chynnwys yn y rheoliadau.

292. Er mai'r bwriad yw gwneud rheoliadau a fydd yn caniatáu i unigolion wneud cwynion yn uniongyrchol i awdurdod diogelwch adeiladau, disgwylir y byddant yn y lle cyntaf yn defnyddio'r trefniadau cwyno a wneir o dan adran 51 neu 52 (fel y bo'n berthnasol).

293. Caiff rheoliadau o dan is-adran (3) gynnwys darpariaeth fel bod gan awdurdod diogelwch adeiladau rôl o benderfynu a yw cwynion a wneir o dan adran 51 neu o dan reoliadau a wneir o dan adran 52 yn "cwynion perthnasol".

294. Diben yr adran hon yw sicrhau bod gan achwynwyr lwybr clir i uwchgyfeirio cwynion os ydynt yn teimlo nad ydynt wedi cael sylw digonol gan brif berson atebol a/neu berson atebol.

295. Enghraifft: Mae preswylydd mewn adeilad categori 1 yn sylwi ar grac yn strwythur yr adeilad ac yn codi pryder anffurfiol gyda'r prif berson atebol. Os nad yw'r prif berson atebol yn mynd i'r afael â'r pryder yn ddigonol, gallai rheoliadau a wneir o dan adran 51 ganiatáu i'r preswylydd uwchgyfeirio'r mater i gŵyn ffurfiol o dan system gwynion y prif berson atebol a weithredir o dan adran 51. Os nad yw'r gŵyn wedi ei datrys o hyd, gallai rheoliadau o dan adran 53 ganiatáu i'r preswylydd uwchgyfeirio'r gŵyn i'r awdurdod diogelwch adeiladau i'w hymchwilio.

PENNOD 8 – DYLETSWYDDAU PRESWYLWYR A PHERCHNOGION ETC. UNEDAU PRESWYL

Adran 54 – Adeiladau rheoleiddiedig: dyletswyddau diogelwch tân preswylwyr etc.

296. Mae'r adran hon yn gymwys i breswylwyr sy'n oedolion mewn uned breswyl a pherchnogion unedau preswyl, pan fo'r unedau hynny mewn adeilad rheoleiddiedig a feddiennir (diffinnir "wedi ei feddiannu" a "perchennog" yn adran 136).

Section 53 - Complaints to building safety authorities

290. Subsection (1) requires each building safety authority to establish and operate a complaints system for the investigation of "relevant complaints" made or referred to it. "Relevant complaint" is defined in subsection (2), as a complaint that relates to a building safety risk relating to a regulated building (as defined in section 28), the performance by an accountable person for the building of any duty under the Act or regulations made under it, or the performance by a special measures manager for a category 1 building of any function conferred on the manager by a special measures order (see section 109).

291. Subsection (3) provides a power for the Welsh Ministers to make regulations about the establishment and operation of complaints systems, with subsection (4) giving examples of the type of provision that may be included in the regulations.

292. While the intention is to make regulations that will allow individuals to make complaints directly to a building safety authority, it is expected that they will first use the complaints arrangements made under section 51 or 52 (as relevant).

293. Regulations under subsection (3) may include provision so that a building safety authority has a role of deciding whether complaints made under section 51 or under regulations made under section 52 are "relevant complaints".

294. The purpose of this section is to ensure that complainants have a clear route to escalate complaints if they feel they have not been adequately addressed by a principal accountable person and/or accountable person.

295. Example: A resident in a category 1 building notices a crack in the building's structure and raises an informal concern with the principal accountable person. If the principal accountable person does not address the concern adequately, regulations made under section 51 could allow the resident to escalate the issue to a formal complaint under the principal accountable person's complaints system operated under section 51. If the complaint is still not resolved, regulations under section 53 could allow the resident to escalate the complaint to the building safety authority for investigation.

CHAPTER 8 - DUTIES OF RESIDENTS AND OWNERS ETC. OF RESIDENTIAL UNITS

Section 54 - Regulated buildings: fire safety duties of residents etc.

296. This section applies to adult residents of a residential unit and the owners of residential units, where those units are in an occupied regulated building ("occupied" and "owner" are defined in section 136).

297. Mae is-adran (2)(a) yn darparu na ddylai personau o'r fath wneud unrhyw weithred mewn cysylltiad â risg diogelwch tân yn cael ei gwireddu mewn perthynas â'r adeilad mewn unrhyw un neu ragor o rannau cyffredin yr adeilad, ar rannau o'r fath neu mewn perthynas â rhannau o'r fath. Mae is-adran (2)(b) yn darparu na ddylai personau o'r fath wneud unrhyw weithred mewn uned breswyl, ar uned o'r fath neu mewn perthynas ag uned o'r fath sy'n creu risg sylweddol, neu sy'n cynyddu'n sylweddol unrhyw risg bresennol, os bydd tân yn cychwyn yn eu huned breswyl, y bydd y tân yn lledaenu o'r uned. Mae is-adran (2)(c) yn darparu na chaiff bersonau o'r fath, heb esgus rhesymol, symud ymaith, difrodi, neu ymyrryd â gweithrediad unrhyw beth sydd yn yr adeilad, neu sy'n ffurfio rhan o unrhyw un neu ragor o rannau cyffredin yr adeilad ac a fwriedir iddo wella diogelwch pobl yn yr adeilad neu o'i amgylch mewn perthynas â risg diogelwch tân.

298. Enghraifft: Mae preswylydd yn storio deunyddiau llosgadwy mewn rhan gyffredin, yn gwefru beic trydan mewn rhan gyffredin neu'n cael barbeciw ar falconi (mae balconi yn rhan gyffredin, hyd yn oed os yw wedi ei gynnwys mewn demeis uned breswyl – gweler is-adran (3)). Byddai'r rhain yn torri adran 54(2)(a) pan fo'r weithred honno'n creu risg sylweddol o risg diogelwch tân yn cael ei gwireddu mewn perthynas â'r adeilad.

299. Enghraifft: Mae preswylydd yn gosod drws ffrynt fflat nad yw'n gwrthsefyll tân neu'n drilio twll rhwng ei uned breswyl ag un arall heb ddilyn dulliau stopio tân priodol. Byddai'r rhain yn torri adran 54(2)(b) pan fo'r weithred honno'n creu risg sylweddol neu'n cynyddu'n sylweddol unrhyw risg bresennol, os bydd tân yn cychwyn yn yr uned breswyl, y bydd y tân yn lledaenu o'r uned.

300. Rhaid i'r rhai y mae'r adran hon yn gymwys iddynt hefyd gydymffurfio â cheisiadau penodol am wybodaeth a wneir gan y prif berson atebol a phersonau atebol penodol, pan fo'r wybodaeth honno yn angenrheidiol i alluogi cydymffurfio â dyletswyddau penodol (sy'n gysylltiedig ag asesu a rheoli risgiau diogelwch tân) (is-adran (4)).

Adran 55 – Adeiladau categori 1 a chategori 2: dyletswyddau diogelwch strwythurol preswylwyr etc.

301. Mae'r adran hon yn gymwys i breswylwyr sy'n oedolion mewn uned breswyl mewn adeilad categori 1 a feddiennir neu adeilad categori 2 a feddiennir, a pherchnogion uned breswyl mewn adeilad categori 1 a feddiennir neu adeilad categori 2 a feddiennir (diffinnir "wedi ei feddiannu" a "perchennog" yn adran 136).

302. Mae is-adran (2) yn darparu na ddylai preswylwyr sy'n oedolion a pherchnogion unedau preswyl:

- mewn unrhyw un neu ragor o rannau cyffredin yr adeilad, ar rannau o'r fath neu mewn perthynas â rhannau o'r fath, wneud unrhyw weithred sy'n creu risg sylweddol o risg diogelwch strwythurol yn cael ei gwireddu mewn perthynas â'r adeilad;
- mewn uned breswyl, neu mewn perthynas ag uned o'r fath, wneud unrhyw weithred sy'n creu risg sylweddol o risg diogelwch strwythurol yn cael ei gwireddu mewn perthynas â'r adeilad.

297. Subsection (2)(a) provides that such persons must not do any act in, on or in relation to, any of the common parts of the building that creates a significant risk of a fire safety risk materialising in relation to the building. Subsection (2)(b) provides that such persons must not do any act in, on or in relation to their residential unit that creates a significant risk, or significantly increases any existing risk that, if fire breaks out in their residential unit, the fire will spread from the unit. Subsection (2)(c) provides that such persons, must not, without a reasonable excuse, remove, damage, or interfere with the functioning of anything that is in, or forms part of any of the common parts of the building and is intended to improve the safety of people in or about the building in relation to a fire safety risk.

298. Example: A resident stores combustible materials in a common part, charges an electric bike in a common part or has a barbeque on a balcony (a balcony is a common part, even if included in a demise of a residential unit – see subsection (3)). These would be a breach of section 54(2)(a) where that action creates a significant risk of a fire safety risk materialising in relation to the building.

299. Example: A resident installs a non-fire resistant flat front door or drills a hole between their residential unit and another without proper fire-stopping. These would be a breach of section 54(2)(b) where that action creates a significant risk or significantly increases any existing risk that, if fire breaks out in their residential unit, the fire will spread from the unit.

300. Those to whom this section applies must also comply with certain requests for information made by the principal accountable person and certain accountable persons, where that information is necessary to enable compliance with certain duties (related to the assessment and management of fire safety risks) (subsection (4)).

Section 55 - Category 1 and category 2 buildings: structural safety duties of residents etc.

301. This section applies to adult residents of a residential unit in an occupied category 1 building or an occupied category 2 building, and owners of a residential unit in an occupied category 1 building or an occupied category 2 building ("occupied" and "owner" are defined in section 136).

302. Subsection (2) provides that adult residents and owners of residential units must not:

- in, on or in relation to, any of the common parts of the building, do any act that creates a significant risk of a structural safety risk materialising in relation to the building;
- in, or in relation to the residential unit, do any act that creates a significant risk of a structural safety risk materialising in relation to the building.

303. Mae is-adran (3) yn darparu bod i "rhannau cyffredin" yn is-adran (2)(a) yr ystyr a roddir iddo yn adran 54(3) h.y. yn cynnwys balconïau hyd yn oed os ydynt mewn demeis uned breswyl.

304. Mae is-adran (4) yn ei gwneud yn ofynnol i'r rhai y mae'r adran hon yn gymwys iddynt gydymffurfio â cheisiadau penodol am wybodaeth h.y. pan fo'r wybodaeth yn angenrheidiol i'r person atebol (neu'r person sy'n cael ei drin fel person atebol oherwydd adran 36) gydymffurfio â dyletswyddau penodol (sy'n ymwneud ag asesu a rheoli risgiau diogelwch strwythurol).

305. Enghraifft: Mae preswylydd yn gwneud gwaith adnewyddu i'w fflat ac yn tynnu wal fewnol sy'n cynnal pwysau heb gydymffurfio â Rheoliadau Adeiladu 2010. Gallai'r weithred hon beryglu cyfanrwydd strwythurol yr adeilad. Byddai hyn yn torri adran 55(2)(b) os yw'n creu risg sylweddol o risg diogelwch strwythurol yn cael ei gwireddu mewn perthynas â'r adeilad.

306. Enghraifft: Mae preswylydd yn gosod twba twym ar falconi ei fflat. Mae pwysau'r twba twym, pan gaiff ei lenwi â dŵr a bod pobl ynddo, yn fwy na chapasiti cynnal pwysau'r balconi. Byddai hyn yn torri adran 55(2)(a) os yw'n creu risg sylweddol o risg diogelwch strwythurol yn cael ei gwireddu mewn perthynas â'r adeilad.

Adran 56 – Gwrthiant tân unedau preswyl: dyletswydd i atgyweirio

307. Mae'r adran hon yn darparu os yw person sy'n dod o fewn is-adran (5) yn ymwybodol o ddifrod i ran o uned breswyl mewn adeilad rheoleiddiedig a feddiennir sy'n arwain at risg sylweddol o dân yn lledaenu o'r uned honno, neu'n cynyddu'n sylweddol unrhyw risg bresennol o ledaeniad tân o'r fath, rhaid iddynt sicrhau bod y difrod yn cael ei atgyweirio.

308. Mae person yn dod o fewn is-adran (5) os yw'n ddarostyngedig i ofyniad o dan les neu yn rhinwedd deddfiad (ac eithrio'r adran hon) i atgyweirio neu gynnal a chadw'r rhan o'r uned breswyl, neu, os nad oes person o'r fath mewn perthynas â'r rhan o'r uned breswyl, y person yw perchennog yr uned breswyl.

309. Enghraifft: mae gollyngiad dŵr sylweddol o uned breswyl yn achosi difrod i lawr un uned a nenfwd yr uned ar wahân islaw. Pan fo'r personau o fewn cwmpas yr adran hon yn ymwybodol o'r difrod byddant o dan ddyletswydd, o dan yr adran hon, i'w atgyweirio. Mae'r ddyletswydd hon ar y person sydd o dan rwymedigaethau atgyweirio (o fewn is-adran (5)(a)) ar gyfer pob rhan (h.y. mewn cysylltiad â llawr un uned a nenfwd yr uned arall), neu os nad oes personau o'r fath, perchennog pob uned breswyl.

Adran 57 – Mynediad i unedau preswyl at ddiben atgyweirio

310. Mae'r adran hon yn galluogi person sy'n ddarostyngedig i'r ddyletswydd yn adran 56 i wneud cais i'r tribiwnlys eiddo preswyl am orchymyn mynediad ar gyfer atgyweirio pan fo'r holl feini prawf yn is-adran (1) wedi eu bodloni, ac y cydymffurfir ag is-adran (4). Mae hyn yn cynnwys gofyniad, cyn y gwneir cais am orchymyn, fod cais am fynediad sy'n cydymffurfio ag is-adran (2) wedi ei wneud ac na roddwyd mynediad.

303. Subsection (3) provides that "common parts" in subsection (2)(a) has the meaning in section 54(3) i.e. includes balconies even if in the demise of a residential unit.

304. Subsection (4) requires those to whom this section applies to comply with certain requests for information i.e. where the information is necessary for the accountable person (or person who is treated as an accountable person because of section 36) to comply with certain duties (related to the assessment and management of structural safety risks).

305. Example: A resident undertakes renovation works to their flat and removes a load-bearing internal wall without complying with the Building Regulations 2010. This action could jeopardise the building's structural integrity. This would be a breach of section 55(2)(b) if it creates a significant risk of a structural safety risk materialising in relation to the building.

306. Example: A resident installs a hot tub on the balcony of their flat. The weight of the hot tub, when filled with water and occupied, exceeds the load-bearing capacity of the balcony. This would be a breach of section 55(2)(a) if it creates a significant risk of a structural safety risk materialising in relation to the building.

Section 56 - Fire resistance of residential units: duty to repair

307. This section provides that if a person that falls within subsection (5) is aware of damage to a part of a residential unit in an occupied regulated building that gives rise to a significant risk, or significantly increases any existing risk, of fire spread from that unit, they must ensure the damage is repaired.

308. A person falls within subsection (5) if they are subject to a requirement under a lease or by virtue of an enactment (other than this section) to repair or maintain the part of the residential unit, or if there is no such person in relation to the part of the residential unit, they are the owner of the unit.

309. Example: a substantial water leak from a residential unit causes damage to the floor of one unit and the ceiling of the separate unit below. Where the persons within scope of this section are aware of the damage they will be under a duty, under this section, to repair it. This duty is on the person who has repairing obligations (within subsection (5)(a)) for each part (i.e., in respect of the floor of one and the ceiling of the other), or if there are no such persons, the owner of each residential unit.

Section 57 - Entry to residential units for purpose of repairs

310. This section enables a person who is subject to the duty in section 56 to apply to the residential property tribunal for a repairs access order where all the criteria in subsection (1) are met, and subsection (4) is complied with. This includes a requirement that before an application is made a request has been made for access that complies with subsection (2) and that access has not been given.

311. Mae gorchymyn mynediad ar gyfer atgyweirio yn orchymyn sy'n ei gwneud yn ofynnol i "person perthnasol" ganiatáu i bersonau penodol fynd i'r uned breswyl i wneud yr atgyweiriadau a nodir yn yr hysbysiad sy'n gofyn am fynediad.

312. Pan fo cais wedi ei wneud, caiff y tribiwnlys eiddo preswyl wneud gorchymyn mynediad ar gyfer atgyweirio pan fo'n fodlon bod y meini prawf yn is-adran (6) wedi eu bodloni.

Adran 58 – Mynediad i unedau preswyl etc. gan berson atebol

313. Mae'r adran hon yn galluogi person atebol ar gyfer adeilad rheoleiddiedig a feddiennir i wneud cais i dribiwnlys eiddo preswyl am orchymyn mynediad pan fodlonir yr holl feini prawf yn is-adran (1), ac y cydymffurfir ag is-adran (5).

314. Mae'r dibenion y gellir gofyn am fynediad ar eu cyfer yn is-adran (2). Caiff y tribiwnlys wneud gorchymyn mynediad os yw'n fodlon ei bod yn angenrheidiol gwneud hynny at y diben a nodir yn y cais (is-adran (7)).

315. Mae gorchymyn mynediad yn orchymyn sy'n ei gwneud yn ofynnol i "person perthnasol" ganiatáu mynediad i bersonau penodol i "mangre berthnasol" ar adeg resymol, gall hefyd gynnwys materion ychwanegol (is-adran (6)). Diffinnir ystyr y prif dermau a ddefnyddir yn yr adran hon yn is-adran (9).

316. Enghraifft: Mae angen i berson atebol archwilio fflat am y posibiliad bod adran 54(2)(c) wedi ei thorri ar ôl cael adroddiadau o ymyrryd â synhwyrydd mwg integredig mewn uned breswyl, sy'n rhan o system sydd wedi ei gosod drwy'r holl adeilad er budd yr holl breswylwyr. I ddechrau, nid yw'r preswylydd yn cydweithredu ac mae'n gwrthod mynediad. Yna mae'r person atebol yn gwneud cais pellach, sy'n cydymffurfio ag is-adran (3). Os yw'r preswylydd yn parhau i beidio â rhoi mynediad i'r uned, caiff y person atebol wneud cais i'r tribiwnlys eiddo preswyl am orchymyn mynediad.

317. Enghraifft: Mae person atebol yn dod yn ymwybodol bod preswylydd wedi ymgymryd â gwaith adnewyddu helaeth i'w fflat, gan gynnwys newidiadau strwythurol, ac mae'n amau bod hyn yn torri'r ddyletswydd yn adran 55(2)(b). Mae angen i'r person atebol hefyd gynnal asesiad diogelwch strwythurol pellach o dan adran 34. Os, yn dilyn cais sy'n cydymffurfio ag is-adran (3), yw mynediad yn parhau i beidio â chael ei roi, caiff y person atebol wneud cais i'r tribiwnlys am orchymyn mynediad.

Adran 59 – Pŵer person atebol i roi hysbysiad rhybuddio: dyletswydd diogelwch tân a diogelwch strwythurol preswylwyr etc.

318. Mae'r adran hon yn galluogi personau atebol a'r prif bersonau atebol roi hysbysiadau rhybuddio os ydynt yn ystyried bod preswylydd sy'n oedolyn neu berchennog uned breswyl wedi torri neu yn torri un neu ragor o'u dyletswyddau o dan adrannau 54 a 55. Mae is-adrannau (1) i (5) yn gwneud darpariaeth ynghylch pwy y gellir rhoi hysbysiad rhybuddio iddo, pwy all roi hysbysiad rhybuddio a'r amgylchiadau y gellir rhoi hysbysiadau rhybuddio ynddynt.

311. A repairs access order is an order that requires a "relevant person" to allow certain persons to enter the residential unit to carry out the repairs detailed in the notice requesting access.

312. Where an application is made, the residential property tribunal can make a repairs access order where it is satisfied that the criteria in subsection (6) are met.

Section 58 - Entry to residential units etc. by accountable person

313. This section enables an accountable person for an occupied regulated building to apply to a residential property tribunal for an access order where all the criteria in subsection (1) are met, and subsection (5) is complied with.

314. The purposes for which access can be requested are in subsection (2). The tribunal may make an access order if satisfied that it is necessary to do so for the purpose set out in the request (subsection (7)).

315. An access order is an order that requires a "relevant person" to allow entry to certain persons to "relevant premises" at a reasonable time, it can also include additional matters (subsection (6)). Key terms used in this section are defined in subsection (9).

316. Example: An accountable person needs to inspect a flat for potential contravention of section 54(2)(c) having received reports of tampering with an integrated smoke detector within a residential unit, which is part of a system installed throughout the building for the benefit of all residents. The resident is initially uncooperative and refuses entry. The accountable person then makes a further request, that complies with subsection (3). If the resident continues not to give entry to the unit, the accountable person can apply to the residential property tribunal for an access order.

317. Example: An accountable person becomes aware that a resident has undertaken extensive renovation works to their flat, including structural changes, and suspects a breach of the duty in section 55(2)(b). The accountable person also needs to carry out a further structural safety assessment under section 34. If, following a request that is compliant with subsection (3), entry continues not to be given the accountable person may apply to the tribunal for an access order.

Section 59 - Power of accountable person to give warning notice: fire and structural safety duty of residents etc.

318. This section enables accountable persons and principal accountable persons to give warning notices if they consider that an adult resident or owner of a residential unit has contravened or is contravening, one or more of their duties under sections 54 and 55. Subsections (1) to (5) make provision as to who can be given, who can give and the circumstances in which, warning notices can be given.

319. Bwriad yr hysbysiad rhybuddio yw naill ai osgoi preswylydd/perchennog yn ailadrodd y torri neu barhau â'r torri, neu unioni unrhyw doriad y mae preswylydd/perchennog eisoes wedi ei wneud.

320. Rhaid i hysbysiad rhybuddio gydymffurfio ag is-adran (6).

321. Mae is-adran (7) yn amlinellu pryd y gall hysbysiad rhybuddio gynnwys, fel cam rhesymol o dan is-adran (6)(b), dalu swm. Er enghraifft, os yw preswylydd sy'n oedolyn neu berchennog yn tynnu ymaith neu'n difrodi unrhyw gyfarpar diogelwch tân a fwriedir i wella diogelwch pobl yn yr adeilad neu o'i amgylch (yn groes i adran 54(2)(c)), gall yr hysbysiad gynnwys, fel cam rhesymol, dalu swm pan fo is-adran (7)(a) yn cael ei bodloni. Mae'r swm y gellir ei bennu wedi ei gyfyngu gan is-adran (7)(b).

322. Mae is-adran (8) yn ei gwneud yn ofynnol i'r person atebol sy'n cyflwyno'r hysbysiad roi gwybod i unrhyw berson atebol arall ar gyfer yr adeilad cyn gynted ag y bo'n rhesymol ymarferol. Bwriad y gofyniad i hysbysu personau atebol eraill yw osgoi dyroddi mwy nag un hysbysiad am yr un toriad, h.y. fel nad yw person atebol a phrif berson atebol ill dau yn cyflwyno hysbysiadau am yr un toriad.

323. Caiff Gweinidogion Cymru wneud darpariaethau pellach ynglŷn â hysbysiadau rhybuddio mewn rheoliadau, gan gynnwys eu ffurf, eu cynnwys, a sut i roi hysbysiadau (adran 62).

324. Enghraifft: Mae preswylydd yn aml yn gadael ei feic ym mhrif dwll grisiau'r adeilad, gan rwystro'r llwybr dianc rhag tân a thorri adran 54(2)(a). Er gwaethaf ymgysylltu anffurfiol gan y person atebol, mae'r preswylydd yn parhau â'r ymddygiad. Gall y person atebol ar gyfer y twll grisiau ddyroddi hysbysiad rhybuddio i'r preswylydd. Rhaid i'r hysbysiad bennu'r toriad honedig (rhwystro'r llwybr dianc rhag tân), y camau rhesymol y mae'r person atebol yn ystyried y dylai'r person eu cymryd (symud y beic ymaith) a'r cyfnod amser ar gyfer gwneud hynny. Gallai'r hysbysiad hefyd ddatgan na ddylai'r person yn y dyfodol adael y beic yn y twll grisiau (is-adran (6)(c)). Rhaid i'r hysbysiad amlinellu canlyniadau peidio â chydymffurfio (cais posibl am orchymyn torri ac effaith gorchymyn o'r fath). Os nad yw'r preswylydd yn cydymffurfio, caiff person atebol wneud cais am orchymyn torri (adran 61).

Adran 60 – Pŵer person atebol i roi hysbysiad rhybuddio: atgyweirio gwrthiant tân unedau preswyl

325. Mae'r adran hon yn galluogi personau atebol a phrif bersonau atebol i roi hysbysiadau rhybuddio os ydynt yn ystyried y bu toriad o'r ddyletswydd yn adran 56. Mae is-adrannau (3) a (4) yn gwneud darpariaeth ynghylch pa wybodaeth y mae rhaid i'r hysbysiad ei chynnwys ac yn ei gwneud yn ofynnol bod rhaid hysbysu unrhyw berson atebol arall yn yr adeilad, cyn gynted ag y bo'n rhesymol ymarferol, fod yr hysbysiad wedi ei roi.

326. Caiff Gweinidogion Cymru wneud darpariaeth bellach ynghylch hysbysiadau rhybuddio mewn rheoliadau, gan gynnwys ffurf hysbysiadau, cynnwys hysbysiadau a rhoi hysbysiadau (adran 62).

319. The warning notice is intended to either avoid the repetition or continuation of contraventions by a resident/owner or remedy any contravention a resident/owner may already have made.

320. A warning notice must comply with subsection (6).

321. Subsection (7) sets out when a warning notice can include, as a reasonable step under subsection (6)(b), the payment of a sum. For example, if an adult resident or owner removes or damages any fire safety equipment intended to improve the safety of people in or about the building (in contravention of section 54(2)(c)) the notice may include as a reasonable step the payment of a sum where subsection (7)(a) is met. The sum that can be specified is limited by subsection (7)(b).

322. Subsection (8) requires the accountable person serving the notice to inform any other accountable person for the building as soon as reasonably practicable. The requirement to notify other accountable persons is intended to avoid the issuing of more than one notice for the same breach i.e. so that both an accountable person and a principal accountable person do not serve notices for the same breach.

323. The Welsh Ministers may make further provisions about warning notices in regulations, including the form, content, and giving of notices (section 62).

324. Example: A resident frequently leaves their bicycle in the building's main stairwell, obstructing the fire escape route and breaching section 54(2)(a). Despite informal engagement from the accountable person, the resident continues the behaviour. The accountable person for the stairwell can issue a warning notice to the resident. The notice must specify the alleged contravention (blocking the fire escape route), the reasonable steps the accountable person considers the person should take (removing the bicycle) and the time period for doing so. The notice could also state that the person must not in the future leave the bicycle in the stairwell (subsection (6)(c)). The notice must set out the consequences of non-compliance (potential application for a contravention order and the effect of such an order). If the resident does not comply then an accountable person may be able to apply for a contravention order (section 61).

Section 60 - Power of accountable person to give warning notice: repair of fire resistance of residential units

325. This section enables accountable persons and principal accountable persons to give warning notices if they consider that there has been a breach of the duty in section 56. Subsections (3) and (4) make provision as to what information the notice must contain and require that any other accountable person in the building must be informed, as soon as reasonably practicable, that the notice has been given.

326. The Welsh Ministers may make further provision about warning notices in regulations, including the form, content, and giving of notices (section 62).

Adran 61 – Pŵer tribiwnlys eiddo preswyl i wneud gorchymyn torri

327. Mae'r adran hon yn galluogi person atebol i wneud cais i'r tribiwnlys eiddo preswyl am orchymyn torri os yw preswylydd sy'n oedolyn neu berchennog uned breswyl mewn adeilad rheoleiddiedig wedi cael hysbysiad rhybuddio yn unol ag adran 59 a bod y person atebol yn ystyried bod y person wedi methu â chymryd cam a bennir yn yr hysbysiad (o dan adran 59(6)(b)) neu wedi gwneud gweithred a bennir yn yr hysbysiad (o dan adran 59(6)(c)). Mae'r adran hon hefyd yn galluogi person atebol i wneud cais i'r tribiwnlys eiddo preswyl am orchymyn torri os rhoddwyd hysbysiad rhybuddio i rywun a chanddo ddyletswydd o dan adran 56 yn unol ag adran 60 a bod y person atebol yn ystyried bod y bod y person wedi methu â gwneud yr atgyweiriadau a bennir yn yr hysbysiad (o dan adran 60(3)(a)). Mae hyn yn darparu mecanwaith gorfodi ffurfiol i sicrhau cydymffurfiaeth â dyletswyddau o dan adrannau 54 i 56. Gall person atebol wneud cais i'r tribiwnlys eiddo preswyl am orchymyn tramgwyddo dim ond ar ôl i hysbysiad gael ei roi i'r awdurdod diogelwch adeiladau a'r awdurdod diogelwch tân sy'n nodi'r bwriad i wneud cais am orchymyn (is-adran (2)).

328. Caiff y tribiwnlys eiddo preswyl wneud gorchymyn torri os yw'n fodlon bod y person wedi cael hysbysiad rhybuddio yn unol ag adran 59 neu adran 60, a bod y toriad neu'r methiant a bennir yn yr hysbysiad wedi digwydd, a'i bod yn angenrheidiol gwneud y gorchymyn.

329. Pan fo hysbysiad rhybuddio wedi ei roi o dan adran 59 caiff gorchymyn torri ei gwneud yn ofynnol i'r person gymryd camau penodol (gan gynnwys darparu gwybodaeth a thaliadau swm) a/neu wahardd y person rhag gwneud gweithred benodol.

330. Enghraifft: Er gwaethaf cael rhybudd gan y person atebol, mae preswylydd yn parhau i adael ei feic ym mhrif dwll grisiau'r adeilad, gan rwystro'r llwybr dianc rhag tân. Mae'r person atebol yn gwneud cais am orchymyn torri i'r tribiwnlys eiddo preswyl. Caiff y tribiwnlys wneud gorchymyn torri os yw'n fodlon bod is-adran (6) wedi ei fodloni. Gallai'r gorchymyn torri, er enghraifft, ei gwneud yn ofynnol i'r preswylydd symud ymaith y beic a gwahardd y preswylydd rhag rhwystro'r llwybr dianc rhag tân yn y dyfodol.

331. Pan fo hysbysiad rhybuddio wedi ei roi o dan adran 60 caiff gorchymyn torri ei gwneud yn ofynnol i'r person y gwneir y gorchymyn mewn cysylltiad ag ef gyflawni gwaith cynnal a chadw penodedig.

Adran 62 – Rheoliadau ynghylch hysbysiadau rhybuddio

332. Mae'r adran hon yn darparu y caiff Gweinidogion Cymru wneud rheoliadau ynghylch ffurf a chynnwys hysbysiadau rhybuddio a sut y mae rhaid eu rhoi i'r derbynnydd.

PENNOD 9 – ADOLYGIADAU AC APELAU

Adran 63 – Adolygiad ac apêl o benderfyniadau penodol: termau allweddol

333. Mae adran 63 yn nodi ystyr "penderfyniad adolygadwy" a "person yr effeithir arno" at ddibenion Pennod 9.

334. Mae "penderfyniad adolygadwy" yn benderfyniad gan awdurdod diogelwch adeiladau sydd wedi ei restru yn is-adran (2).

Section 61 - Power of residential property tribunal to make contravention order

327. This section enables an accountable person to apply to the residential property tribunal for a contravention order if an adult resident or owner of a residential unit in a regulated building has been given a warning notice in accordance with section 59 and the accountable person considers that the person has failed to take a step specified in the notice (under section 59(6)(b)) or done an act specified in the notice (under section 59(6)(c)). This section also enables an accountable person to apply to the residential property tribunal for a contravention order if someone with a duty under section 56 has been given a warning notice in accordance with section 60 and the accountable person considers that the person has failed to carry out the repairs specified in the notice (under section 60(3)(a)). This provides a formal enforcement mechanism to ensure compliance with duties under sections 54 to 56. An accountable person can only apply to the residential property tribunal for a contravention order after a notice has been given to the building safety authority and fire safety authority setting out the intention to apply for an order (subsection (2)).

328. The residential property tribunal may make a contravention order if it is satisfied that the person has been given a warning notice in accordance with section 59 or section 60 and, the contravention or failure specified in the notice occurred, and it is necessary to make the order.

329. Where a warning notice has been given under section 59 a contravention order may require the person to take specific steps (including the provision of information and payments of a sum) and/ or prohibit the person from doing a specified act.

330. Example: Despite receiving a warning notice from the accountable person, a resident continues to leave their bicycle in the building's main stairwell, obstructing the fire escape route. The accountable person applies for a contravention order to the residential property tribunal. The tribunal may make a contravention order if it is satisfied subsection (6) is met. The contravention order could, for example, require the resident to remove the bicycle and prohibit the resident from obstructing the fire escape route in the future.

331. Where a warning notice has been given under section 60 a contravention order may require the person in respect of whom it is made to carry out specified repairs.

Section 62 - Regulations about warning notices

332. This section provides that Welsh Ministers may make regulations about the form and content of warning notices and how they must be given to the recipient.

CHAPTER 9 - REVIEWS AND APPEALS

Section 63 - Review and appeal of certain decisions: key terms

333. Section 63 sets out the meaning of "reviewable decision" and "affected person" for the purposes of Chapter 9.

334. A "reviewable decision" is a decision of a building safety authority which is listed in subsection (2).

335. Mae is-adran (3) yn darparu ystyr "person yr effeithir arno". Mewn perthynas â rhai penderfyniadau, y person hwnnw fydd y person atebol ar gyfer yr adeilad (neu berson a fyddai'n berson atebol pe bai'r adeilad yn adeilad categori 1 neu'n adeilad categori 2), ac ar gyfer penderfyniadau eraill, y person hwnnw fydd y prif berson atebol.

Adran 64 – Adolygiad o benderfyniad adolygadwy

336. Mae adran 64 yn caniatáu i berson yr effeithir arno ofyn am adolygiad o benderfyniad adolygadwy. Diben y broses adolygu yw, yn fras, galluogi personau yr effeithir arnynt i herio penderfyniadau a rhoi cyfle iddynt wneud sylwadau a darparu gwybodaeth bellach i'r awdurdod diogelwch adeiladau (yn ddarostyngedig i is-adran (5)). Yn y pen draw, dylai'r broses hon leihau nifer y ceisiadau a wneir i'r tribiwnlys.

337. Mae is-adran (2) yn gosod dyletswydd ar Weinidogion Cymru i wneud rheoliadau sy'n gwneud darpariaeth ynghylch sut y mae rhaid rhoi hysbysiad o gais am adolygiad, ffurf a chynnwys hysbysiad a'r terfyn amser ar gyfer rhoi hysbysiad.

338. O dan is-adran (3), caiff rheoliadau o dan is-adran (2) hefyd wneud darpariaeth ynghylch dogfennau sydd i'w cynnwys gyda hysbysiad o gais am adolygiad a darpariaeth i'r awdurdod diogelwch adeiladau estyn y dyddiad cau ar gyfer rhoi hysbysiad.

339. Mae is-adran (4) yn gosod dyletswydd ar awdurdod diogelwch adeiladau i adolygu penderfyniad pan ofynnir iddo wneud hynny, os yw'r cais yn cydymffurfio â gofynion is-adran (1) (gweler hefyd is-adran (2)). Mae is-adrannau (5) a (6) yn gwneud darpariaeth o ran natur a chwmpas adolygiad ac ystyried unrhyw sylwadau a wneir, neu wybodaeth neu ddogfennau a roddir gan y person yr effeithir arno. Mae is-adran (7) yn nodi'r penderfyniadau y gall awdurdod diogelwch adeiladau eu gwneud ar ôl cwblhau adolygiad.

340. Mae is-adrannau (8) i (9) yn nodi'r hyn y mae rhaid i awdurdod diogelwch adeiladau ei wneud ar ôl i'r adolygiad ddod i ben. Bydd rheoliad o dan is-adran (12) yn pennu'r "cyfnod perthnasol", a chyn diwedd y cyfnod hwnnw, rhaid hysbysu'r holl bersonau yr effeithir arnynt o'r canlyniad, er y gellir newid y "cyfnod perthnasol" drwy gytundeb ysgrifenedig rhwng yr awdurdod a'r person yr effeithir arno (is-adran (12)(b)). Mae is-adrannau (10) ac (11) yn gwneud darpariaeth mewn cysylltiad ag achosion pan na fo awdurdod diogelwch adeiladau wedi hysbysu'r person yr effeithir arno a ofynnodd am yr adolygiad am ganlyniad yr adolygiad o fewn y "cyfnod perthnasol ".

Adran 65 – Apêl i dribiwnlys eiddo preswyl

341. Diben yr adran hon yw galluogi person yr effeithir arno i apelio i'r tribiwnlys eiddo preswyl yn erbyn penderfyniad adolygadwy os yw'n anfodlon â chanlyniad adolygiad o'r penderfyniad hwnnw o dan adran 64.

342. Os mai canlyniad yr adolygiad o dan adran 64 oedd bod yr awdurdod diogelwch adeiladau wedi amrywio'r penderfyniad, y penderfyniad a gafodd ei amrywio yw'r penderfyniad y gellir ei apelio i'r tribiwnlys ar ei gyfer (is-adran (2)).

335. Subsection (3) provides the meaning of "affected person". In relation to some decisions, that will be the accountable person for the building (or a person who would be an accountable person if the building were a category 1 building or a category 2 building), and for other decisions that will be the principal accountable person.

Section 64 - Review of reviewable decision

336. Section 64 allows an affected person to request a review of a reviewable decision. The purpose of the review process is, broadly speaking, to enable affected persons to challenge decisions and provide them with the opportunity to make representations and provide (subject to subsection (5)) further information to the building safety authority. Ultimately this process should reduce the number of applications made to the tribunal.

337. Subsection (2) places a duty on the Welsh Ministers to make regulations making provision about how a notice of a request for a review must be given, the form and content of a notice and the deadline for giving a notice.

338. Under subsection (3), regulations under subsection (2) may also make provision about documents to be included with a notice of a request for a review and provision for the building safety authority to extend the deadline for giving a notice.

339. Subsection (4) places a duty on a building safety authority to review a decision where requested to do so, if the request complies with the requirements of subsection (1) (see also subsection (2)). Subsections (5) and (6) make provision as to the nature and extent of a review and the consideration of any representations, information or documents given by the affected person. Subsection (7) sets out the decisions a building safety authority can make on conclusion of a review.

340. Subsections (8) to (9) set out what a building safety authority must do once a review has concluded. Regulations under subsection (12) will specify the "relevant period", before the end of which, the outcome must be notified to all affected persons, although the "relevant period" can be changed by agreement in writing between the authority and the affected person who requested the review (subsection (12)(b)). Subsections (10) and (11) make provision in respect of cases where a building safety authority has not notified the affected person who requested the review of the outcome of the review within the "relevant period".

Section 65 - Appeal to residential property tribunal

341. The purpose of this section is to enable an affected person to appeal to the residential property tribunal against a reviewable decision if they are dissatisfied with the outcome of a review of that decision under section 64.

342. If the result of the review under section 64 was that the building safety authority varied the decision, it is the varied decision that can be appealed to the tribunal (subsection (2)).

343. Mae is-adran (3) yn darparu ar gyfer yr amserlenni y mae rhaid gwneud apêl ynddynt. Rhaid i berson yr effeithir arno apelio i'r tribiwnlys cyn diwedd 28 o ddiwrnodau sy'n dechrau â'r diwrnod drannoeth y diwrnod y rhoddir yr hysbysiad o dan adran 64(7) neu (9)(b). Mae is-adran (4) yn rhoi disgresiwn i'r tribiwnlys ganiatáu apelau hwyr, os yw'n fodlon bod rheswm da dros y methiant i apelio cyn diwedd y 28 o ddiwrnodau (ac am unrhyw oedi wrth wneud cais am ganiatâd i apelio y tu allan i'r terfyn amser).

344. Mae is-adran (5) yn darparu ar gyfer seiliau'r apêl sydd ar gael i'r person yr effeithir arno. Mae is-adran (6) yn darparu y caiff y tribiwnlys ystyried tystiolaeth nad oedd ar gael i'r awdurdod diogelwch adeiladau pan wnaeth ei benderfyniad, neu pan adolygodd ei benderfyniad. Caiff y tribiwnlys gadarnhau, amrywio neu ddiddymu'r penderfyniad y mae'r awdurdod diogelwch adeiladau wedi ei wneud (is-adran (7)).

Adran 66 – Effaith adolygiad ac apêl

345. Mae'r adran hon yn rhoi pŵer i Weinidogion Cymru wneud darpariaeth am faterion penodol sy'n ymwneud ag adolygiadau ac apelau e.e. atal dros dro effaith penderfyniad adolygadwy yn ystod y "cyfnod adolygu" ac effaith apêl o dan adran 65 yn ystod y "cyfnod apelio".

346. Mae is-adran (3) yn diffinio "cyfnod adolygu", "cyfnod apelio" ac "awdurdod perthnasol" at ddibenion is-adran (2).

PENNOD 10 – ATODOL

Mynediad i fangre amhreswyl

Adran 67 – Mynediad i fangre amhreswyl gan berson atebol

347. Mae'r adran hon yn gwneud darpariaeth i berson atebol wneud cais i dribiwnlys eiddo preswyl am orchymyn mynediad i fangre amhreswyl o dan amgylchiadau penodol, sef bod y person atebol wedi gwneud cais am fynediad i'r fangre amhreswyl, bod y cais yn cael ei wneud at ddiben a grybwyllir yn is-adran (2) ac na roddir mynediad i'r fangre. Rhaid i'r cais hefyd gydymffurfio â'r gofynion yn is-adran (3). Cyfeirir at y fangre amhreswyl y mae'r adran hon yn gymwys iddi yn yr adran fel "mangre berthnasol". Mae'r term wedi ei ddiffinio yn is-adran (8).

348. Mae gorchymyn mynediad i fangre amhreswyl yn orchymyn sy'n ei gwneud yn ofynnol i'r person sydd â rheolaeth dros fynediad i'r fangre berthnasol ganiatáu i'r person atebol fynd i'r fangre ar adeg resymol at y diben a nodir yn y cais.

349. Caiff y tribiwnlys wneud gorchymyn mynediad i fangre amhreswyl os yw wedi ei fodloni ei fod yn angenrheidiol gwneud hynny at y diben a nodir yn cais (is-adran (6)).

350. Enghraifft: Mae maes parcio masnachol sy'n dod o fewn y diffiniad o "mangre berthnasol" yn is-adran (8) islaw adeilad rheolieddiedig. Er mwyn cwblhau asesiad strwythurol o'r adeilad, mae angen i'r person atebol archwilio'r colofnau a'r trawstiau ategol sydd wedi eu lleoli yn y maes parcio. Oni roddir mynediad i'r maes parcio yn dilyn cais sy'n cydymffurfio â'r adran hon, caiff y person atebol wneud cais i'r tribiwnlys am orchymyn mynediad i fangre amhreswyl.

343. Subsection (3) provides for the timeframes in which an appeal must be made. An affected person must appeal to the tribunal before the end of 28 days beginning with the day after the day on which the notice under section 64(7) or (9)(b) is given. Subsection (4) gives the tribunal discretion to allow late appeals, if is satisfied that there is a good reason for the failure to appeal before the end of the 28 days (and for any delay in applying for permission to appeal out of time).

344. Subsection (5) provides for the grounds of appeal available to the affected person. Subsection (6) provides that evidence that was not available to the building safety authority when it made its decision, or when it reviewed its decision, may be considered by the tribunal. The tribunal may uphold, vary or quash the decision that the building safety authority has made (subsection (7)).

Section 66 - Effect of review and appeal

345. This section provides the Welsh Ministers with a regulation making power to make provision about certain matters related to reviews and appeals e.g. the suspension of the effect of a reviewable decision during the "review period" and the effect of an appeal under section 65 during the "appeal period".

346. Subsection (3) defines "review period", "appeal period" and "relevant authority" for the purposes of subsection (2).

CHAPTER 10 - SUPPLEMENTARY

Entry to non-residential premises

Section 67 - Entry to non-residential premises by accountable person

347. This section makes provision for an accountable person to apply to a residential property tribunal for a non-residential premises access order in certain circumstances. These are that the accountable person has requested entry to the non-residential premises, the request is made for a purpose mentioned in subsection (2) and entry to the premises is not given. The request must also comply with the requirements in subsection (3). The non-residential premises to which this section applies are referred to in the section as "relevant premises". This term is defined in subsection (8).

348. A non-residential premises access order is an order that requires the person who has control over entry to the relevant premises to allow the accountable person to enter the premises at a reasonable time for the purpose set out in the request.

349. The tribunal may make a non-residential premises access order if it is satisfied that it is necessary to do so for the purpose set out in the request (subsection (6)).

350. Example: A commercial car park that falls within the definition of "relevant premises" in subsection (8) lies beneath a regulated building. To complete a structural assessment of the building, the accountable person needs to inspect supporting columns and beams located within the car park. If access to the car park is not given following a request that complies with this section, the accountable person can apply to the tribunal for a non-residential premises access order.

Cydweithredu a chydlynu

Adran 68 – Cydweithredu a chydlynu: dyletswyddau personau atebol

351. Nod yr adran hon yw sicrhau bod y bobl a chanddynt gyfrifoldebau allweddol dros ddiogelwch adeiladau rheoleiddiedig yn cydweithredu ac yn cydlynu â'i gilydd i helpu i sicrhau diogelwch cyffredinol yr adeilad.

352. Rhaid i bob person atebol ar gyfer adeilad rheoleiddiedig, cyn belled ag y bo modd, gydweithredu a chydlynu â'i gilydd wrth gyflawni eu dyletswyddau o dan y Ddeddf a'r rheoliadau a wneir oddi tani (is-adran (2)).

353. Os yw'r adeilad rheoleiddiedig yn cynnwys tŷ amlfeddiannaeth perthnasol (a ddiffinnir yn Rhan 2, adran 78), rhaid i bersonau atebol ar gyfer yr adeilad gydweithredu a chydlynu â'r deiliaid dyletswydd (a ddiffinnir yn adran 79) ar gyfer y tŷ amlfeddiannaeth perthnasol wrth gyflawni eu dyletswyddau o dan y Ddeddf a'r rheoliadau a wneir oddi tani (is-adran (3) a (4)). Mae adran 91(4) yn gosod dyletswyddau cyfatebol i gydweithredu a chydlynu ar ddeiliaid dyletswyddau.

354. Rhaid i berson atebol ar gyfer adeilad categori 1 hefyd gydweithredu ag unrhyw reolwr mesurau arbennig (gweler adran 109) ar gyfer yr adeilad, at ddiben y rheolwr yn cyflawni ei swyddogaethau o dan y gorchymyn (is-adrannau (5) a (6)).

355. Os yw rheolwr wedi ei benodi o dan orchymyn o dan adran 24 o Ddeddf Landlord a Thenant 1987 i gyflawni "swyddogaethau diogelwch adeiladau" mewn perthynas ag adeilad rheoleiddiedig, rhaid i'r personau atebol ar gyfer yr adeilad gydweithredu â'r rheolwr at ddiben y rheolwr yn cyflawni ei swyddogaethau o dan y gorchymyn (is-adrannau (7) ac (8); diffinnir "swyddogaeth diogelwch adeiladau" yn is-adran (9)).

356. Rhaid i berson atebol ar gyfer adeilad rheoleiddiedig hefyd gydweithredu â "personau cyfrifol" o dan Orchymyn Diwygio Rheoleiddio (Diogelwch Tân) 2005, pan fo'r person cyfrifol hwnnw'n gyfrifol am fangre sy'n ffurfio rhan o'r adeilad rheoleiddiedig, neu sydd yn yr un strwythur neu set o strwythurau â'r adeilad rheoleiddiedig ac yn gorwedd (yn gyfan gwbl neu'n rhannol) uwchben neu islaw'r adeilad (is-adrannau (10) ac (11)).

357. Mae hyn yn golygu, er enghraifft, y byddai'r personau atebol ar gyfer adeilad rheoleiddiedig o dan ddyletswydd i gydweithredu â'r person cyfrifol ar gyfer siop a oedd islaw'r adeilad (gweler y nodiadau esboniadol i adran 3 a 4 sy'n nodi ystyr "adeilad"), at ddiben y person cyfrifol yn cyflawni ei ddyletswyddau o dan Orchymyn Diwygio Rheoleiddio (Diogelwch Tân) (O.S. 2005/1541) ("y GDT").

358. Mae adran 121 yn diwygio'r GDT i osod dyletswyddau cyfatebol i gydweithredu ar bersonau cyfrifol.

359. Mae is-adran (12) yn darparu bod cyfeiriadau at berson atebol yn yr adran hon yn cynnwys personau sy'n cael eu trin fel person atebol o dan adran 36.

Co-operation and Co-ordination

Section 68 - Co-operation and co-ordination: duties of accountable persons

351. This section aims to ensure that the people with key responsibilities for the safety of regulated buildings are cooperating and coordinating with each other to help ensure the overall safety of the building.

352. All accountable persons for a regulated building must, so far as possible, co-operate and co-ordinate with each other when carrying out their duties under the Act and regulations made under it (subsection (2)).

353. If the regulated building contains a relevant HMO (defined in Part 2, section 78), accountable persons for the building must co-operate and co-ordinate with the duty holders (defined in section 79) for the relevant HMO when carrying out their duties under the Act and regulations made under it (subsection (3) and (4)). Section 91(4) places corresponding duties to co-operate and co-ordinate on duty holders.

354. An accountable person for a category 1 building must also co-operate with any special measures manager (see section 109) for the building, for the purpose of the manager carrying out their functions under the order (subsections (5) and (6)).

355. If a manager has been appointed under an order under section 24 of the Landlord and Tenant Act 1987 to carry out "building safety functions" in relation to a regulated building, the accountable persons for the building must cooperate with the manager for the purpose of the manager carrying out their functions under the order (subsections (7) and (8); "building safety function" is defined in subsection (9)).

356. An accountable person for a regulated building must also co-operate with "responsible persons" under the Regulatory Reform (Fire Safety) Order 2005, where that responsible person is responsible for premises that form part of the regulated building, or that are in the same structure or set of structures as the regulated building and lie (wholly or partly) above or below the building (subsections (10) and (11)).

357. This means, for example, that the accountable persons for a regulated building would be under a duty to co-cooperate with the responsible person for a shop that was below the building (see explanatory notes to section 3 and 4 which set out the meaning of "building"), for the purposes of the responsible person carrying out their duties under the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/ 1541) ("the FSO").

358. Section 121 amends the FSO to place corresponding duties to co-operate on responsible persons.

359. Subsection (12) provides that references to an accountable person in this section includes persons treated as an accountable person under section 36.

Adennill costau perthnasol gan brif berson atebol

Adran 69 – Adennill costau perthnasol gan brif berson atebol

360. Mae adran 69(1) yn darparu pŵer i Weinidogion Cymru wneud rheoliadau i alluogi'r prif berson atebol ar gyfer adeilad rheoleiddedig i adennill costau perthnasol oddi wrth unrhyw berson arall sy'n berson atebol ar gyfer yr adeilad neu sy'n cael ei drin fel person atebol ar gyfer yr adeilad yn rhinwedd adran 36.

361. Mae is-adran (2) yn nodi ystyr "costau perthnasol" at y dibenion hyn.

Lesoedd

Adran 70 – Lesoedd: telerau ymhlyg sy'n ymwneud â chydymffurfio â dyletswyddau diogelwch adeiladau

362. Mae'r adran hon yn gwneud diwygiadau i Ddeddf Landlord a Thenant 1985 ("Deddf 1985") drwy fewnosod adran 30IA yn y Ddeddf honno.

363. Mae'r adran hon yn diwygio Deddf 1985 i ddarparu telerau ymhlyg (cyfamodau) mewn perthynas â diogelwch adeiladau. Mae'r rhain yn gymwys i bob les o annedd mewn adeiladau rheoleiddiedig yng Nghymru.

364. O dan y telerau ymhlyg hyn, mae pob "person perthnasol" (e.e. landlord) yn cyfamodi â'r tenant i gydymffurfio â'i ddyletswyddau diogelwch adeiladau os yw'n berson atebol o dan y Ddeddf, ac i gydweithredu ag unrhyw berson wrth gydymffurfio â'i ddyletswyddau diogelwch adeiladau. Diffinnir "person perthnasol" yn is-adran (7) o adran 30IA. Mewn cysylltiad â chyfamodau tenantiaid, mae cyfamod ymhlyg gan y tenant i gydymffurfio ag unrhyw orchymyn mynediad ar gyfer atgyweirio, unrhyw orchymyn mynediad neu unrhyw orchymyn torri a wnaed mewn cysylltiad â'r tenant, neu unrhyw hysbysiad cydymffurfio a roddir i'r tenant o dan y Ddeddf.

365. Cynhwysir darpariaeth gysylltiedig bellach yn is-adrannau (4) i (7) o adran 30IA, gan gynnwys diffiniadau o'r termau a ddefnyddir yn yr adran honno a'r ddarpariaeth honno am ddiogelu data.

Adran 71 – Atebolrwydd tenantiaid am gostau sy'n ymwneud â diogelwch adeiladau

366. Mae'r adran hon yn gwneud diwygiadau i Ddeddf Landlord a Thenant 1985 drwy fewnosod adrannau 30IB a 30IC yn y Ddeddf honno. Mae adran 30IB yn gymwys i "les berthnasol" h.y. les nad yw'n gontract meddiannaeth:

- a roddir am gyfnod penodol o 7 mlynedd neu ragor, pa un a ellir ei derfynu (neu y caniateir ei derfynu) cyn diwedd y cyfnod hwnnw drwy hysbysiad a roddir gan y tenant neu drwy ailfynediad neu fforffediad ai peidio, ac
- y mae'r tenant yn atebol o dano i dalu tâl gwasanaeth amrywiol.

367. Mae'n darparu ar gyfer lesoedd o'r fath, y gellir adennill costau cymryd mesur diogelwch adeiladau o dan y tâl gwasanaeth. Mae is-adran (4) yn nodi bod ffioedd cyfreithiol a phroffesiynol eraill, ffioedd sy'n daladwy i'r awdurdod diogelwch adeiladau a chostau rheoli yr eir iddynt mewn cysylltiad â chymryd mesur diogelwch adeiladau yn adenilladwy.

368. Mae adran 30IC yn diffinio ystyr "building safety measure" at ddibenion adran 301B.

Recovery of relevant costs by principal accountable person

Section 69 - Recovery of relevant costs by principal accountable person

360. Section 69(1) provides a power for the Welsh Ministers to make regulations to enable the principal accountable person for a regulated building to recover relevant costs from any other person who is an accountable person for the building or who is treated as an accountable person for the building by virtue of section 36.

361. Subsection (2) sets out the meaning of "relevant costs" for these purposes.

Leases

Section 70 - Leases: implied terms relating to compliance with building safety duties

362. This section makes amendments to the Landlord and Tenant Act 1985 ("the 1985 Act") by inserting section 30IA into that Act.

363. This section amends the 1985 Act to provide implied terms (covenants) in relation to building safety. These apply to all leases of dwellings in regulated buildings in Wales.

364. Under these implied terms, each "relevant person" (e.g. a landlord) covenants with the tenant to comply with their building safety duties if they are an accountable person under the Act, and to cooperate with any person in complying with their building safety duties. "Relevant person" is defined in subsection (7) of section 30IA. In respect of tenant covenants, there is implied a covenant by the tenant to comply with any repairs access order, access order or contravention order made in respect of the tenant, or compliance notice given, to the tenant under the Act.

365. Further related provision is included in subsections (4) to (7) of section 30IA, including definitions of terms used in that section and provision about data protection.

Section 71 - Liability of tenants for costs relating to building safety

366. This section makes amendments to the Landlord and Tenant Act 1985 Act by inserting sections 30IB and 30IC into that Act. Section 30IB applies to a "relevant lease" i.e. a lease which is not an occupation contract:

- that is granted for a term certain of 7 years or more, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture, and
- under which the tenant is liable to pay a variable service charge.

367. It provides for such leases that the costs of taking a "building safety measure" are recoverable under the service charge. Subsection (4) sets out that legal and other professional fees, fees payable to the building safety authority and management costs incurred in connection with the taking of a building safety measure are recoverable.

368. Section 30IC defines the meaning of "building safety measure" for the purpose of section 301B.

369. Mae is-adran (5) o adran 30IC yn darparu pŵer i Weinidogion Cymru wneud rheoliadau sy'n diwygio ystyr "building safety measure".

Adran 72 – Darpariaeth bellach ynghylch telerau ymhlyg ac atebolrwydd am gostau

370. Mae'r adran hon yn gwneud diwygiadau i Ddeddf Landlord a Thenant 1985, gan gynnwys drwy fewnosod adran 20DA ac 20DB ac adrannau 30ID i 30IH yn y Ddeddf honno.

371. Mae adran 20DA yn gymwys mewn perthynas â les y mae adran 30IB yn gymwys iddi. Mae adran 20DA(2) yn ei gwneud yn ofynnol i berson perthnasol gymryd camau rhesymol i ganfod pa un a yw unrhyw grant yn daladwy mewn cysylltiad â gwaith diogelwch adeiladau neu ba un a ellir cael unrhyw arian oddi wrth drydydd parti mewn cysylltiad â gwneud gwaith diogelwch adeilad ac, os felly, i gael y grant neu'r arian oddi wrth y trydydd parti. Mae hefyd yn ei wneud yn ofynnol i berson perthnasol gymryd camau rhagnodedig mewn perthynas ag unrhyw fath rhagnodedig arall o gyllid.

372. Mae "relevant person" wedi ei ddiffinio yn is-adran (10) a'i ystyr yw y landlord, os yw'r landlord yn berson atebol ar gyfer yr adeilad neu fel arall unrhyw uwchlandlord sy'n berson atebol ar gyfer yr adeilad.

373. Mae is-adran (3) yn egluro bod y cyfeiriad at "obtaining money from a third party" yn cynnwys cael arian o dan bolisi yswiriant, o dan warant neu indemniad neu yn unol â hawliad a wnaed yn erbyn datblygwr, person sy'n ymwneud â dylunio'r adeilad neu â gwneud gwaith i'r adeilad, neu berson sy'n ymwneud â gwneud gwaith mewn perthynas â'r adeilad.

374. Mae is-adran (4) yn ei gwneud yn ofynnol, pan geir unrhyw gyllid o fath a ddisgrifir yn is-adran (2), fod swm y cyllid i'w ddidynnu o gostau diogelwch yr adeilad (ac mae swm unrhyw dâl gwasanaeth amrywiadwy i'w leihau yn unol â hynny).

375. Mae adran 20DB yn diffinio ystyr "building safety works" at ddibenion adran 20DA. Mewn perthynas ag adeilad rheoleiddiedig, ystyr "building safety works" yw gwaith y cyfeirir ato yn adran 33(3) o'r Ddeddf (rheoli risgiau diogelwch tân gan bersonau atebol). Mewn perthynas ag adeilad categori 1 neu gategori 2, ystyr "building safety works" yw gwaith y cyfeirir ato yn adran 35(2) o'r Ddeddf (rheoli risgiau diogelwch strwythurol gan berson atebol).

376. Mae adran 30ID yn gwneud darpariaeth am gyfamodau pan fo rheolwr o dan adran 24 o Ddeddf Landlord a Thenant 1986 yn cyflawni unrhyw ddyletswyddau diogelwch adeiladau person atebol ar gyfer adeilad rheoleiddiedig a phan fo gorchymyn mesurau arbennig o dan adran 109 o'r Ddeddf mewn grym.

377. Mae adran 30IE yn darparu bod cyfamod neu gytundebau sy'n honni eithrio neu gyfyngu ar rwymedigaethau'r landlord a'r tenant o dan ddarpariaethau penodol a fanylir yn yr adran honno yn ddi-rym.

369. Subsection (5) of section 30IC provides a power for the Welsh Ministers to make regulations amending the meaning of "building safety measure".

Section 72 - Further provision about implied terms and liability for costs

370. This section makes amendments to the Landlord and Tenant Act 1985, including by inserting section 20DA and 20DB and sections 30ID to 30IH into that Act.

371. Section 20DA applies in relation to a lease to which section 30IB applies. Section 20DA (2) requires a relevant person to take reasonable steps to ascertain whether any grant is payable in respect of building safety works or whether any monies may be obtained from a third party in connection with the undertaking of building safety works and, if so, to obtain the grant or monies from the third party. It also requires a relevant person to take prescribed steps relating to any other prescribed kind of funding.

372. "Relevant person" is defined in subsection (10) and means the landlord, if the landlord is an accountable person for the building or otherwise any superior landlord who is an accountable person for the building.

373. Subsection (3) clarifies that the reference to "obtaining money from a third party" includes obtaining monies under a policy of insurance, under a guarantee or indemnity or pursuant to a claim made against a developer, a person involved in the design of the building or of works to the building, or a person involved in the carrying out of works in relation to the building.

374. Subsection (4) requires that, where any funding of a kind mentioned in subsection (2) is obtained, the amount of the funding is to be deducted from the building safety costs (and the amount of any variable service charge is to be reduced accordingly).

375. Section 20DB defines the meaning of "building safety works" for the purposes of section 20DA. In relation to a regulated building, "building safety works" means works as referred to in section 33(3) of the Act (management of fire safety risks by accountable persons). In relation to a category 1 or category 2 building, "building safety works" means works as referred to in section 35(2) of the Act (management of structural safety risks by accountable persons).

376. Section 30ID makes provision about covenants where a manager under section 24 of the Landlord and Tenant Act 1986 is carrying out any building safety duties of an accountable person for a regulated building and where a special measures order under section 109 of the Act is in force.

377. Section 30IE provides that covenants or agreements purporting to exclude or limit the obligations of the landlord and tenant under certain provisions detailed in that section are void.

378. Mae adran 30IF yn darparu mai'r llys sirol yw'r llys ar gyfer penderfynu unrhyw gwestiwn neu fater o dan adrannau 30IA i 30IE.

379. Mae adran 30IG yn darparu y caiff y llys orchymyn perfformiad penodol o delerau ymhlyg penodol h.y. ei gwneud yn ofynnol i berson gydymffurfio â'r rhwymedigaethau hynny er gwaethaf unrhyw reol a fyddai fel arall yn cyfyngu'r rhwymedi. Gall y gorchymyn hefyd fod yn gymwys i rannau o'r adeilad nad ydynt yn rhannau sydd wedi eu rhoi ar les i'r tenant (ac eithrio mewn perthynas â thorri'r cyfamod yn adran 30IA(3)(a)).

380. Mae adran 30IH yn diffinio termau a ddefnyddir yn adrannau 30IA i 30IG.

381. Mae is-adrannau (6) a (7) o adran 72 yn gwneud darpariaeth sy'n ganlyniadol i'r darpariaethau eraill a fewnosodir yn Neddf Landlord a Thenant 1985.

Adran 73 – Costau sy'n ymwneud â gorfodi etc. wedi eu heithrio o'r tâl gwasanaeth amrywiadwy

382. Mae'r adran hon yn gwneud diwygiadau i Ddeddf Landlord a Thenant 1985 drwy fewnosod adran 20FA yn y Ddeddf honno. Mae adran 20FA yn cyfyngu ar y costau y gellir eu hadennill fel tâl gwasanaeth o ganlyniad i adran 30IB, drwy ddarparu nad yw costau gwaharddedig i'w hystyried wrth bennu swm unrhyw dâl gwasanaeth amrywiol. Diffinnir "excluded costs" yn adran 20FA(3).

Adran 74 – Darparu gwybodaeth am ddiogelwch adeiladau i denantiaid

383. Mae'r adran hon yn gwneud diwygiadau i Ddeddf Landlord a Thenant 1987 ("Deddf 1987") drwy fewnosod adrannau 47B a 49B yn y Ddeddf honno.

384. Mae adran 47B yn darparu i wybodaeth diogelwch adeiladau berthnasol gael ei chynnwys mewn hawliadau am rent etc., pan fo Rhan 6 o Ddeddf 1987 yn gymwys i'r mangreoedd hynny, a'u bod yn annedd mewn adeilad rheoleiddiedig neu'n cynnwys annedd mewn adeilad rheoleiddiedig. Diffinnir "relevant building safety information" yn adran 49B. Mae hefyd yn gwneud darpariaeth ar gyfer pan fo methiant i roi gwybodaeth o'r fath.

385. Mae adran 49B yn darparu bod rhaid i landlord mangre y mae Rhan 6 o Ddeddf 1987 yn gymwys iddi, pan fo'r fangre honno yn annedd neu'n cynnwys annedd mewn adeilad rheoleiddiedig, roi hysbysiad i'r tenant sy'n cynnwys yr wybodaeth ddiogelwch adeiladau berthnasol. Mae hefyd yn gwneud darpariaeth ar gyfer pan fo methiant i roi hysbysiad o'r fath.

378. Section 30IF provides that the county court is the court for determining any question or issue under sections 30IA to 30IE.

379. Section 30IG provides that the court may order specific performance of certain implied terms i.e. require a person to comply with those obligations not withstanding any rule that would otherwise restrict the remedy. The order can also apply to parts of the building which are not parts leased to the tenant (save in relation to breaches of the covenant in section 30IA(3)(a)).

380. Section 30IH defines terms used in sections 30IA to 30IG.

381. Subsections (6) and (7) of section 72 make provision consequential to the other provisions inserted into the Landlord and Tenant Act 1985.

Section 73 - Costs relating to enforcement etc. excluded from variable service charge

382. This section makes amendments to the Landlord and Tenant Act 1985 by inserting section 20FA into that Act. Section 20FA limits the costs that can be recovered as a service charge as a result of section 30IB, by providing that "excluded costs" are not to be taken into account in determining the amount of any variable service charge. "Excluded costs" are defined in section 20FA (3).

Section 74 - Provision of building safety information to tenants

383. This section makes amendments to the Landlord and Tenant Act 1987 ("the 1987 Act") by inserting sections 47B and 49B into that Act.

384. Section 47B provides for "relevant building safety information" to be contained in demands for rent etc., where Part 6 of the 1987 Act applies to those premises, and they are or include a dwelling in a regulated building. "Relevant building safety information" is defined in section 49B. It also makes provision for where there is failure to give such information.

385. Section 49B provides that the landlord of premises to which Part 6 of the 1987 Act applies must, where those premises are or include a dwelling in a regulated building, give the tenant a notice containing "relevant building safety information". It also makes provision for where there is failure to give such notice.

Contractau meddiannaeth

Adran 75 – Pŵer i wneud darpariaeth sy'n ymwneud â thelerau contractau meddiannaeth

386. Mae adran 75 yn darparu pŵer gwneud rheoliadau sy'n galluogi Gweinidogion Cymru i ddiwygio Deddf Rhentu Cartrefi (Cymru) 2016 ("Deddf 2016"). Mae is-adran (1)(a) yn nodi y caiff y rheoliadau hyn ddiwygio Deddf 2016 i gynnwys darpariaeth sylfaenol, sy'n gymwys i bob contract meddiannaeth neu i rai ohonynt, at y diben o alluogi landlord neu ddeiliad contract i gydymffurfio â darpariaeth o'r Ddeddf hon neu reoliadau a wneir oddi tani. Mae is-adran (1)(b) yn galluogi i'r rheoliadau hefyd ddarparu bod darpariaeth o'r Ddeddf hon neu reoliadau a wneir oddi tani yn ddarpariaeth sylfaenol sy'n gymwys i bob contract meddiannaeth neu i rai ohonynt.

387. Mae is-adran (1)(c) yn galluogi'r rheoliadau i wneud darpariaeth ynghylch ymgorffori, neu ymgorffori gydag addasiadau, ddarpariaethau sylfaenol a grybwyllir yn is-adrannau (1)(a) neu (b) fel telerau sylfaenol ac amrywio telerau sylfaenol o'r fath.

388. Mae is-adran (2) hefyd yn darparu y caiff y rheoliadau ddiwygio adran 30IA o Ddeddf Landlord a Thenant 1985 (a fewnosodwyd gan adran 69 o'r Ddeddf hon) i ddarparu nad yw adran 30IA yn gymwys i unrhyw gontractau meddiannaeth neu i rai ohonynt ac i wneud diwygiadau canlyniadol i unrhyw ddeddfiad.

389. Mae is-adran (3) yn darparu bod i'r ymadroddion a ddefnyddir yn yr adran hon a ddefnyddir hefyd yn Neddf 2016 yr un ystyron ag sydd iddynt yn y Ddeddf honno.

390. Mae rheoliadau a wneir o dan yr adran hon yn ddarostyngedig i'r weithdrefn gychwynnol yn adran 77 ac i weithdrefn gymeradwyo'r Senedd.

Cyfunddaliadau

Adran 76 – Cyfunddaliadau: darpariaeth ar gyfer cydymffurfio â dyletswyddau diogelwch adeiladau

391. Mae'r adran hon yn diwygio Deddf Cyfunddaliad a Diwygio Cyfraith Lesddaliad 2002 ("Deddf 2002") er mwyn ystyried dyletswyddau newydd cymdeithasau cyfunddaliad o dan y Ddeddf a chostau. Mae adran 8 o'r Ddeddf yn darparu os yw adeilad ar dir cyfunddaliad, y gymdeithas gyfunddaliad yw'r person atebol ar gyfer yr adeilad.

392. Mae'r diwygiadau i adrannau 14 a 26 o Ddeddf 2002 yn ei gwneud yn ofynnol i ddatganiad cymunedol cyfunddaliad, pan fo'r cyfunddaliad yn cynnwys y cyfan neu ran o adeilad rheoleiddiedig, i wneud darpariaeth sy'n ei gwneud yn ofynnol i'r gymdeithas gyfunddaliad gydymffurfio â'i dyletswyddau o dan y Ddeddf, neu reoliadau a wneir oddi tani (mewn perthynas â phob uned gyfunddaliadol a'r rhannau cyffredin).

Occupation contracts

Section 75 - Power to make provision relating to terms of occupation contracts

386. Section 75 provides a regulation making power enabling the Welsh Ministers to amend the Renting Homes (Wales) Act 2016 ("the 2016 Act"). Subsection (1)(a) sets out that these regulations may amend the 2016 Act to include a fundamental provision, applicable to all or some occupation contracts, for the purpose of enabling a landlord or contract-holder to comply with a provision of this Act or regulations made under it. Subsection (1)(b) enables the regulations to also provide that a provision of this Act or regulations made under it is a fundamental provision applicable to all or some occupation contracts.

387. Subsection (1)(c) enables the regulations to make provision about the incorporation, or incorporation with modifications, of fundamental provisions mentioned in subsections (1)(a) or (b) as fundamental terms and the variation of such fundamental terms.

388. Subsection (2) also provides that the regulations may amend section 30IA of the Landlord and Tenant Act 1985 (which was inserted by section 69 of this Act) to provide that section 30IA does not apply to any or some occupation contracts and to make consequential amendments to any enactment.

389. Subsection (3) provides that expressions used in this section that are also used in the 2016 Act have the same meaning as they have in that Act.

390. Regulations made under this section are subject to the initial procedure in section 77 and the Senedd approval procedure.

Commonholds

Section 76 - Commonholds: provision for compliance with building safety duties

391. This section amends the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act") so as to account for the new duties of commonhold associations under the Act and costs. Section 8 of the Act provides that if a building is on commonhold land the commonhold association is the accountable person for the building.

392. The amendments to sections 14 and 26 of the 2002 Act require a commonhold community statement, where the commonhold includes all or part of a regulated building, to make provision requiring the commonhold association to comply with its duties under the Act, or regulations made under it (in relation to, each commonly held unit and the common parts).

393. Mae'r adran hon hefyd yn gwneud darpariaeth (drwy ddiwygio adran 38A o Ddeddf 2002) sy'n ei gwneud yn ofynnol i'r datganiad cymunedol gynnwys bod rhaid i gyfarwyddwyr cymdeithas gyfunddaliad wneud amcangyfrif blynyddol o'r incwm y mae'n ofynnol ei godi gan ddeiliaid unedau i dalu costau diogelwch adeiladu'r gymdeithas, ac mae'n ei gwneud yn ofynnol i bob deiliad uned dalu'r ganran o'r swm a amcangyfrifir sy'n cael ei ddyrannu i'w uned. Diffinnir "building safety expenses of the association" yn is-adran (4) newydd adran 38A, gan gynnwys darpariaeth ar gyfer pan benodir rheolwr mesurau arbennig (adran 109 o'r Ddeddf).

Rheoliadau o dan adrannau 17, 28(2) a 75

Adran 77 – Rheoliadau o dan adrannau 17, 28(2) a 75: gweithdrefn gychwynnol

394. Mae'r adran hon yn ei gwneud yn ofynnol i gymhwyso gweithdrefn gychwynnol i reoliadau o dan adrannau 17, 28(2) neu 75. Cyn y gellir gosod offeryn statudol Cymreig drafft sy'n cynnwys rheoliadau o dan yr adrannau hynny gerbron y Senedd yn unol ag adran 126(4), rhaid i Weinidogion Cymru osod y dogfennau gofynnol gerbron y Senedd a rhaid i gyfnod o 60 o ddiwrnodau sy'n dechrau â'r diwrnod y gosodwyd y dogfennau hynny ddod i ben.

395. Y "dogfennau gofynnol" fel y'u nodir yn is-adran (2), yw drafft arfaethedig o'r rheoliadau a datganiad yn nodi manylion yr ymgynghoriad a gynhaliwyd o dan adran 17(3) neu 28(7) (fel y bo'n gymwys) ynghyd ag esboniad o pam y mae Gweinidogion Cymru yn ystyried bod y rheoliadau'n angenrheidiol.

396. Os yw Gweinidogion Cymru yna'n gosod offeryn statudol drafft sy'n cynnwys rheoliadau o dan adrannau 17, 28(2) neu 75 gerbron y Senedd, rhaid iddynt gynnwys gyda'r drafft hwnnw (o dan is-adran (4)) ddatganiad sy'n rhoi manylion unrhyw sylwadau a gafwyd ganddynt yn ystod y cyfnod o 60 o ddiwrnodau, ac unrhyw wahaniaethau rhwng y drafft arfaethedig o'r rheoliadau a'r rheoliadau yn yr offeryn statudol Cymreig drafft.

397. Mae is-adran (5) yn darparu ar gyfer eithriadau penodol i'r weithdrefn gychwynnol.

RHAN 2 – DIOGELWCH TÂN MEWN TAI AMLFEDDIANNAETH PENODOL

Termau allweddol

Adran 78 – Ystyr "tŷ amlfeddiannaeth perthnasol"

398. Mae'r adran hon yn nodi ystyr cyfeiriadau yn y Ddeddf hon at "tŷ amlfeddiannaeth perthnasol". Mae hyn yn cynnwys pob tŷ amlfeddiannaeth sy'n gyfan gwbl neu'n bennaf yng Nghymru ac eithrio'r hyn y mae is-adran (3) yn ei eithrio. Mae'r eithriadau hynny'n cwmpasu tai sy'n cynnwys mwy nag un uned annedd (e.e., dau neu ragor o fflatiau), tai a feddiennir gan bobl sy'n rhannu'r un hawliau i'r eiddo cyfan (e.e. pan fo grŵp o bobl yn meddiannu tŷ cyfan o dan un denantiaeth ar y cyd), tai sy'n cael eu meddiannu gan berchennog, lesddeiliad neu denant a dim mwy na dau letywr, a thai o dan reolaeth Comisiynydd Heddlu a Throseddu. Mae is-adran (3) hefyd yn caniatáu i Weinidogion Cymru wneud rheoliadau sy'n eithrio mathau eraill o eiddo rhag bod yn dai amlfeddiannaeth perthnasol.

393. This section also makes provision (by amending section 38A of the 2002 Act) requiring the community statement to include that the directors of a commonhold association must make an annual estimate of the income required to be raised from unit-holders to meet the building safety expenses of the association ("building safety expenses of the association"), and require each unit-holder to pay the percentage of the sum estimated which is allocated to their unit. "Building safety expenses of the association" is defined in new subsection (4) of section 38A, including provision for where a special measures manager has been appointed (section 109 of the Act).

Regulations under sections 17, 28(2) and 75

Section 77 - Regulations under sections 17, 28(2) and 75: initial procedure

394. This section requires an initial procedure to be applied to regulations under sections 17, 28(2) or 75. Before a draft Welsh statutory instrument containing regulations under those sections can be laid before the Senedd in accordance with section 126(4), the Welsh Ministers must lay the required documents before the Senedd and a period of 60 days beginning with the day on which those documents were laid must expire.

395. The "required documents", as set out in subsection (2), are a proposed draft of the regulations and a statement setting out the detail of the consultation conducted under section 17(3), or 28(7) (as applicable) together with an explanation of why the Welsh Ministers consider that the regulations are necessary.

396. If the Welsh Ministers then lay a draft statutory instrument containing regulations under sections 17, 28(2) or 75 before the Senedd, they must include with that draft (under subsection (4)) a statement giving details of any representations they received during the 60-day period, and any differences between the proposed draft of the regulations and the regulations in the draft Welsh statutory instrument.

397. Subsection (5) provides for certain exceptions to the initial procedure.

PART 2 - FIRE SAFETY IN CERTAIN HOUSES IN MULTIPLE OCCUPATION

Key terms

Section 78 - Meaning of "relevant HMO"

398. This section sets out the meaning of references in this Act to a "relevant HMO". This includes all HMOs wholly or mainly in Wales other than that which subsection (3) excludes. Those exclusions cover houses containing more than one dwelling unit (e.g. two or more flats), houses occupied by people who share the same rights to the whole property (e.g. where a group of people occupy a whole house under a single joint tenancy), houses occupied by an owner, leaseholder or tenant and no more than two lodgers, and houses under the control or management of a Police and Crime Commissioner. Subsection (3) also allows the Welsh Ministers to make regulations excluding other types of properties from being relevant HMOs.

399. Mae is-adran (5) yn darparu bod tŷ amlfeddiannaeth perthnasol yn cynnwys ardaloedd a strwythurau eraill fel gerddi, garejys a siediau sydd ar gael at ddefnydd y preswylwyr. Pan fo tŷ amlfeddiannaeth perthnasol yn rhan o adeilad arall, mae hefyd yn cynnwys strwythur a'r tu allan i'r adeilad sy'n gyfagos i'r tŷ amlfeddiannaeth, ac unrhyw ardaloedd cyffredin o'r adeilad at ddefnydd preswylwyr y tŷ amlfeddiannaeth.

400. Mae'n bosibl y gall tŷ amlfeddiannaeth perthnasol fod yn rhan o adeilad rheoleiddiedig – er enghraifft, os yw un neu ragor o fflatiau mewn bloc yn cael feddiannu neu eu meddiannu fel tŷ amlfeddiannaeth. Yn yr achos hwnnw, mae is-adran (6) yn darparu nad yw'r tŷ amlfeddiannaeth yn cynnwys rhannau cyffredin yr adeilad, gan y cânt eu cwmpasu gan y darpariaethau yn y Ddeddf sy'n ymwneud ag adeiladau rheoleiddiedig.

401. Mae is-adran (8) yn darparu pŵer i Weinidogion Cymru wneud rheoliadau i ddiwygio'r adran hon ac eithrio is-adran (1).

Adran 79 – Ystyr "landlord" a "deiliaid dyletswydd" ar gyfer tŷ amlfeddiannaeth perthnasol

402. Mae'r adran hon yn nodi ystyr cyfeiriadau yn y Ddeddf hon at y "landlord" a "deiliaid dyletswydd" mewn perthynas â thŷ amlfeddiannaeth perthnasol.

Adran 80 – Ystyr "risg diogelwch tân" mewn perthynas â thŷ amlfeddiannaeth perthnasol

403. Mae'r adran hon yn nodi ystyr "risg diogelwch tân" mewn perthynas â "tai amlfeddiannaeth perthnasol". Mae'n debyg iawn i'r diffiniad ar gyfer gweddill y Ddeddf (h.y. ar gyfer "adeiladau rheoleiddiedig") ond mae'n ofynnol o ystyried bod darpariaethau ar wahân mewn perthynas â thai amlfeddiannaeth perthnasol.

Asesu a rheoli risgiau diogelwch tân mewn tai amlfeddiannaeth perthnasol

Adran 81 – Asesiad o risgiau diogelwch tân: dyletswyddau landlord

404. Mae'r adran hon yn ei gwneud yn ofynnol i landlord tŷ amlfeddiannaeth perthnasol sicrhau y caiff "asesiad risg tân ar dŷ amlfeddiannaeth" ei wneud yn unol ag adrannau 82 i 84. Mae'n gwneud hynny mewn termau sy'n sylweddol yr un fath â'r rhai yn adran 29 sy'n cwmpasu adeiladau rheoleiddiedig.

Adran 82 – Gofyniad i asesiad risg tân ar dŷ amlfeddiannaeth gael ei wneud gan berson cymwys

405. Mae'r adran hon yn nodi bod rhaid i unrhyw un sy'n gwneud asesiad risg tân ar gyfer tŷ amlfeddiannaeth perthnasol fod yn gymwys i wneud hynny. Mae'n gwneud hynny mewn termau sy'n sylweddol yr un fath â'r rhai yn adran 30 sy'n cwmpasu adeiladau rheoleiddiedig.

Adran 83 – Amseru ac adolygu asesiadau risg tân ar dŷ amlfeddiannaeth

406. Mae'r adran hon yn nodi pryd a pha mor aml y mae rhaid gwneud neu adolygu asesiad risg tân ar gyfer tŷ amlfeddiannaeth perthnasol. Mae'n gwneud hynny mewn termau sy'n sylweddol yr un fath â'r rhai yn adran 31 sy'n cwmpasu adeiladau rheoleiddiedig.

399. Subsection (5) provides that a relevant HMO includes other areas and structures like gardens, garages and sheds which are available for the residents' use. Where a relevant HMO is part of another building it also includes the structure and exterior of the building adjoining the HMO, and any common areas of the building for the use of the residents of the HMO.

400. It is possible that a relevant HMO may be part of a regulated building – for instance, if one or more flats in a block is occupied as an HMO. In that case, subsection (6) provides that the HMO does not include the common parts of the building, as they are covered by the provisions in the Act relating to regulated buildings.

401. Subsection (8) provides a power for the Welsh Ministers to make regulations to amend this section except subsection (1).

Section 79 - Meaning of "landlord" and "duty holders" for relevant HMO

402. This section sets out the meaning of references in this Act to the "landlord" and "duty holders" in relation to a relevant HMO.

Section 80 - Meaning of "fire safety risk" in relation to relevant HMO

403. This section sets out the meaning of "fire safety risk" in relation to relevant HMOs. It is very similar to the definition for the rest of the Act (i.e. for regulated buildings) but is required given that there are separate provisions in relation to relevant HMOs.

Assessment and management of fire safety risks in relevant HMOs

Section 81 - Assessment of fire safety risks: duties of landlord

404. This section requires the landlord of a relevant HMO to ensure that a "HMO fire risk assessment" is made in accordance with sections 82 to 84. It does so in terms which are substantively the same as those in section 29 covering regulated buildings.

Section 82 - Requirement for HMO fire risk assessment to be made by competent person

405. This section sets out that anyone who makes a fire risk assessment for a relevant HMO must be competent to do so. It does so in terms which are substantively the same as those in section 30 covering regulated buildings.

Section 83 - Timing and review of HMO fire risk assessments

406. This section sets out when and how often a fire risk assessment for a relevant HMO must be made or reviewed. It does so in terms which are substantively the same as those in section 31 covering regulated buildings.

Adran 84 – Darpariaeth bellach am asesiadau risg tân ar dŷ amlfeddiannaeth

407. Mae'r adran hon yn gwneud darpariaethau pellach ynghylch sut y mae rhaid gwneud a chofnodi asesiad risg tân ar gyfer tŷ amlfeddiannaeth rheoleiddiedig. Mae'n gwneud hynny mewn termau sy'n sylweddol yr un fath â'r rhai yn adran 32 sy'n cwmpasu adeiladau rheoleiddiedig.

Adran 85 – Rheoli risgiau diogelwch tân gan ddeiliaid dyletswydd

408. Mae'r adran hon yn nodi'r cyfrifoldebau ar gyfer deiliaid dyletswydd tŷ amlfeddiannaeth perthnasol ar gyfer diogelwch tân mewn tŷ amlfeddiannaeth perthnasol. Mae'n gwneud hynny mewn termau sy'n sylweddol yr un fath â'r rhai yn adran 33 sy'n cwmpasu adeiladau rheoleiddiedig.

Darparu gwybodaeth a dogfennau sy'n ymwneud â thai amlfeddiannaeth perthnasol

Adran 86 – Gofyniad i roi gwybodaeth a dogfennau i ddeiliad dyletswydd

409. Mae'r adran hon yn gosod dyletswydd ar bersonau perthnasol i roi gwybodaeth neu ddogfen i ddeiliad dyletswydd ar gyfer tŷ amlfeddiannaeth perthnasol pan fo'r meini prawf yn is-adran (3) wedi eu bodloni.

410. Mae ystyr person perthnasol at ddibenion yr adran hon wedi ei nodi yn is-adran (2).

411. Mae is-adran (3)(a) yn darparu bod rhaid i'r wybodaeth neu'r ddogfen y gofynnir amdani gan ddeiliad dyletswydd fod yn angenrheidiol er mwyn iddynt allu cydymffurfio â gofyniad o dan y Ddeddf neu reoliadau a wneir oddi tani. Mae is-adran (3)(b) yn darparu bod rhaid i gais o dan yr adran hon fod yn ysgrifenedig, a nodi manylion yr hyn y mae rhaid i gais ysgrifenedig ei gynnwys. Er mwyn i'r ddyletswydd yn is-adran (1) fod yn gymwys, rhaid iddo fod yn rhesymol i'r person perthnasol roi'r wybodaeth neu'r ddogfen i'r deiliad dyletswydd (is-adran (3)).

412. Mae is-adran (3)(d) yn golygu ni all y deiliad dyletswydd wneud cais am wybodaeth o dan is-adran (1) os gall y deiliad dyletswydd wneud cais am yr un wybodaeth oddi wrth y person perthnasol o dan y dyletswyddau rhannu gwybodaeth a osodir ar feddianwyr tai amlfeddiannaeth perthnasol gan adran 88(4).

413. Ni fydd datgelu gwybodaeth neu ddogfen o dan yr adran hon yn torri unrhyw rwymedigaeth o ran cyfrinachedd sy'n ddyledus gan y person sy'n gwneud y datgeliad, neu unrhyw gyfyngiad arall ar ddatgelu gwybodaeth neu ddogfen; ond yn rhinwedd adran 183A o Ddeddf Diogelu Data 2018 bydd yn ddarostyngedig i ofynion deddfwriaeth diogelu data sy'n ymwneud â phrosesu data personol.

414. Mae is-adran (6) yn darparu bod cyfeiriadau at berson atebol yn yr adran hon yn cynnwys personau sy'n cael eu trin fel person atebol o dan adran 36.

Section 84 - Further provision about HMO fire risk assessments

407. This section makes further provisions about how a fire risk assessment for a regulated HMO must be made and recorded. It does so in terms which are substantively the same as those in section 32 covering regulated buildings.

Section 85 - Management of fire safety risks by duty holders

408. This section sets out the responsibilities for duty holders of a relevant HMO for fire safety in a relevant HMO. It does so in terms which are substantively the same as those in section 33 covering regulated buildings.

Provision of information and documents relating to relevant HMOs

Section 86 - Requirement to give information and documents to duty holder

409. This section places a duty on relevant persons to give information or a document to a duty holder for a relevant HMO where the criteria in subsection (3) are satisfied.

410. A relevant person for the purposes of this section is set out in subsection (2).

411. Subsection (3)(a) provides that the information or document requested by a duty holder must be necessary for them to be able to comply with a requirement under the Act or regulations made under it. Subsection (3)(b) provides that a request under this section must be in writing and details what a written request must contain. For the duty in subsection (1) to apply, it must be reasonable for the relevant person to give the information or document to the duty holder (subsection (3)).

412. Subsection (3)(d) means that the duty holder cannot request information under subsection (1) if the duty holder can request the same information from the relevant person under the information sharing duties placed on occupiers of relevant HMOs by section 88(4).

413. A disclosure of information or a document under this section will not breach any obligation of confidence owed by the person making the disclosure, or any other restriction on the disclosure of information or a document; but by virtue of section 183A of the Data Protection Act 2018 it will be subject to the requirements of data protection legislation relating to the processing of personal data.

414. Subsection (6) provides that references to an accountable person in this section includes persons treated as an accountable person under section 36.

Adran 87 – Gofyniad i ddeiliad dyletswydd roi gwybodaeth a dogfennau i bersonau eraill

415. Mae is-adran (1) yn darparu pŵer i Weinidogion Cymru wneud rheoliadau sy'n ei gwneud yn ofynnol i ddeiliad dyletswydd ar gyfer tai amlfeddiannaeth perthnasol roi gwybodaeth "perthnasol" benodol neu ddogfennau "perthnasol" penodol i bersonau penodol. Gall y rheoliadau ei gwneud yn ofynnol i'r wybodaeth neu ddogfennau gael eu darparu i'r awdurdod diogelwch tân, meddianwyr y tŷ amlfeddiannaeth, ac unrhyw berson arall a bennir yn y rheoliadau. Mae is-adran (2) yn darparu y caiff y rheoliadau bennu pryd a sut y mae rhaid rhoi'r wybodaeth o ddogfennau, a'r fformat y mae rhaid iddynt gael eu rhoi ynddo. Mae "perthnasol" wedi ei ddiffinio yn is-adran (6).

416. Gellid defnyddio'r pŵer hwn i sicrhau bod gwybodaeth am y darpariaethau diogelwch tân a'r risgiau o fewn y tŷ amlfeddiannaeth perthnasol yn cael eu cyfathrebu i'r bobl sydd angen gwybod am yr wybodaeth. Yn benodol, mae angen i'r bobl sy'n byw yn y tŷ amlfeddiannaeth fod yn ymwybodol o unrhyw risgiau diogelwch tân a nodwyd a'r camau lliniaru sydd ar waith i'w galluogi i wneud penderfyniadau diogel a theimlo'n ddiogel yn eu cartref. Mae angen i'r awdurdod diogelwch tân sy'n gorfodi'r darpariaethau diogelwch tân o fewn y Ddeddf hefyd fod yn ymwybodol o'r risgiau tân mawr ar y safle a'r camau lliniaru (os oes rhai) sydd ar waith i leihau'r risgiau (h.y. larymau mwg, systemau chwistrellu etc.).

417. Caiff y rheoliadau ddarparu ei bod yn ofynnol i'r deiliad dyletswydd ddarparu rhywfaint neu'r cyfan o'r wybodaeth o ddogfennau dim ond os gofynnwyd amdanynt. Caiff y rheoliadau bennu sut y mae rhaid gwneud ceisiadau i'r deiliad dyletswydd am ddogfen neu wybodaeth (is-adran (4)).

418. Os yw'r rheoliadau yn gofyn i wybodaeth o ddogfennau gael eu darparu i awdurdod diogelwch tân, caiff y rheoliadau hefyd wneud darpariaeth ynghylch derbynioldeb yr wybodaeth honno mewn achosion troseddol.

Dyletswyddau meddianwyr tai amlfeddiannaeth perthnasol

Adran 88 – Dyletswyddau meddianwyr sy'n ymwneud â risgiau diogelwch tân a darparu gwybodaeth

419. Mae is-adran (2) yn gymwys i feddiannydd tŷ amlfeddiannaeth perthnasol sy'n 18 oed neu'n hŷn, pan nad yw'r tŷ amlfeddiannaeth wedi ei gynnwys mewn adeilad rheoleiddiedig.

420. Mae is-adran (2)(a) yn darparu na ddylai meddiannydd yn y tŷ amlfeddiannaeth perthnasol, ar y tŷ hwnnw neu mewn perthynas â'r tŷ hwnnw wneud unrhyw weithred sy'n creu risg sylweddol neu'n cynyddu'n sylweddol unrhyw risg bresennol, os bydd tân yn cychwyn yn y tŷ amlfeddiannaeth, y bydd y tân yn lledaenu o'r tŷ amlfeddiannaeth. Er enghraifft, gall dal drysau tân ar agor gyda lletem am gyfnodau hir o amser neu storio deunyddiau llosgadwy yn amhriodol i gyd achosi i dân ledaenu o'r tŷ amlfeddiannaeth.

Section 87 - Requirement for duty holder to give information and documents to other persons

415. Subsection (1) provides a power for the Welsh Ministers to make regulations requiring a duty holder for a relevant HMOs to give particular "relevant" information or particular "relevant" documents to certain persons. The regulations can require the information or documents to be provided to the fire safety authority, the occupiers of the HMO, and any other person specified in the regulations. Subsection (2) provides that the regulations may specify when and how the information of documents must be given, and the format in which they must be given. "Relevant" is defined in subsection (6).

416. This power could be used to ensure that information on the fire safety provisions and risks within the relevant HMO were being communicated to the people that need to know the information. In particular the people who live in the HMO need to be aware of any fire safety risks identified and the mitigations that are in place to allow them to make safe decisions and feel secure in their home. The fire safety authority who enforces the fire safety provisions within the Act also needs to be aware of major fire risks on the premises and the mitigations (if any) in place to reduce the risks (i.e. smoke alarms, sprinklers etc.).

417. The regulations may provide that the duty holder is required to provide some or all the information of documents only if it has been requested. The regulations may specify how requests to the duty holder for a document or information must be made (subsection (4)).

418. If information of documents are required by the regulations to be provided to a fire safety authority, the regulations may also make provision about the admissibility of that information in criminal proceedings.

Duties of occupiers of relevant HMOs

Section 88 - Occupiers' duties relating to fire safety risks and provision of information

419. Subsection (2) applies to an occupier of a relevant HMO who is aged 18 or over, where the HMO is not contained in a regulated building.

420. Subsection (2)(a) provides that an occupier must not in, on or in relation to the relevant HMO do any act that creates a significant risk or significantly increases any existing risk that, if fire breaks out in the HMO, the fire will spread from the HMO. For example, wedging fire doors open for long periods of time or improperly storing combustible materials can all cause a fire to spread from the HMO.

421. Mae is-adran (2)(b) yn darparu na chaiff meddiannydd, heb esgus rhesymol, symud ymaith, difrodi, neu ymyrryd â gweithrediad unrhyw beth sydd yn y tŷ amlfeddiannaeth, neu sy'n ffurfio rhan ohono ac a fwriedir iddo wella diogelwch pobl yn y tŷ amlfeddiannaeth perthnasol neu o'i amgylch mewn perthynas â risg diogelwch tân (a ddiffinnir yn adran 80).

422. Mae is-adran (4) yn gymwys i feddiannydd tŷ amlfeddiannaeth perthnasol sy'n 18 oed neu'n hŷn, pa un a yw'r tŷ amlfeddiannaeth mewn adeilad rheoleiddiedig ai peidio. Mae'r is-adran hon yn ei gwneud yn ofynnol i feddiannydd gydymffurfio â cheisiadau penodol am wybodaeth h.y. y rhai sy'n bodloni'r meini prawf yn is-adran (4)(a) neu (b) h.y. a wneir gan bersonau penodol a phan fo'r wybodaeth yn angenrheidiol i alluogi'r person hwnnw i gydymffurfio â dyletswyddau penodol (sy'n gysylltiedig ag asesu a rheoli risgiau diogelwch tân).

423. O ganlyniad i adran 78(5), mae'r cyfeiriadau at dŷ amlfeddiannaeth perthnasol yn yr adran hon yn cynnwys ardaloedd eraill, megis tai allan a meysydd parcio a ddarperir ar gyfer meddianwyr y tŷ amlfeddiannaeth perthnasol.

Adran 89 – Mynediad gan ddeiliaid dyletswydd at ddibenion asesu a rheoli risgiau diogelwch tân

424. Efallai y bydd angen mynediad i ran benodol o'r tŷ amlfeddiannaeth ar ddeiliad dyletswydd er mwyn iddo allu cydymffurfio â dyletswyddau penodol h.y. eu dyletswyddau mewn cysylltiad ag asesiadau risg tân tŷ amlfeddiannaeth (pan mai nhw yw'r landlord) a'u dyletswyddau mewn cysylltiad â rheoli'r risgiau diogelwch tân. Mae is-adran (3) yn nodi'r hyn y mae rhaid ei gynnwys mewn cais am fynediad er mwyn iddo gydymffurfio â'r adran hon h.y. rhaid iddo fod yn ysgrifenedig, yn nodi'r diben, yn esbonio pam mae angen mynediad i'r rhan benodol, yn gofyn am fynediad ar ddyddiad ac amser sy'n rhesymol ac yn rhoi o leiaf 48 awr o rybudd.

425. Os na roddir mynediad i'r rhan benodedig (a chydymffurfir â'r holl feini prawf eraill yn is-adran (1), ac y cydymffurfir ag is-adran (5)), yna caiff y deiliad dyletswydd wneud cais i'r tribiwnlys eiddo preswyl am orchymyn mynediad i dŷ amlfeddiannaeth. Caiff y tribiwnlys wneud gorchymyn mynediad i dŷ amlfeddiannaeth os yw'n fodlon ei bod yn angenrheidiol gwneud hynny at y dibenion a nodir yn y cais. Os caiff ei wneud, bydd y gorchymyn yn ei gwneud yn ofynnol i feddiannydd y rhan benodedig ganiatáu i'r deiliad dyletswydd fynd i'r rhan benodedig o'r tŷ amlfeddiannaeth ar adeg resymol at y diben a nodir yn y cais a gall, os yw'n angenrheidiol at y diben hwnnw, awdurdodi camau gweithredu eraill penodol (is-adran (6)(b)). Gweler hefyd is-adran (8) am ofynion ynghylch amseroedd. Cyn gwneud cais i'r tribiwnlys eiddo preswyl, rhaid i'r deiliad dyletswydd hysbysu'r awdurdod diogelwch tân yn ysgrifenedig o'i fwriadau a rhaid i'r hysbysiad gynnwys gwybodaeth benodol (is-adran (5)).

421. Subsection (2)(b) provides that an occupier, must not, without a reasonable excuse, remove, damage, or interfere with the functioning of anything that is in, or forms part of the relevant HMO and is intended to improve the safety of people in or about the relevant HMO in relation to a fire safety risk (defined in section 80).

422. Subsection (4) applies to an occupier of a relevant HMO who is aged 18 or over, whether or not the HMO is in a regulated building. This subsection requires an occupier to comply with certain requests for information i.e. those that meet the criteria in subsection (4)(a) or (b) i.e. made by certain persons and where the information is necessary to enable that person to comply with certain duties (related to the assessment and management of fire safety risks).

423. As a result of section 78(5), the references to a relevant HMO in this section include other areas, such as outbuildings and car parks provided for the occupiers of the relevant HMO.

Section 89 - Entry by duty holders for purposes of assessing and managing fire safety risks

424. A duty holder for a relevant HMO may need access to a specified part of the HMO to be able to comply with certain duties i.e. their duties in respect of HMO fire risk assessments (where they are the landlord) and their duties in respect of the management of the fire safety risks. Subsection (3) sets out what must be included in a request for access for it to comply with this section i.e. it must be in writing, setting out the purpose, explain why entry to the specified part is needed, request entry on a date and time that is reasonable and give at least 48 hours' notice.

425. Should access to the specified part not be given (and all the other criteria in subsection (1) are complied with, and subsection (5) is complied with) then the duty holder may apply to the residential property tribunal for an HMO access order. The tribunal may make an HMO access order if it is satisfied it is necessary to do so for the purposes set out in the request. If made, the order will require the occupier of the specified part to allow the duty holder to enter the specified part of the HMO at a reasonable time for the purpose set out in the request and may if necessary for that purpose authorise certain other actions (subsection (6)(b)). See also subsection (8) for requirements as to timings. Before applying to the residential property tribunal, the duty holder must notify the fire safety authority in writing of their intentions and the notice must contain certain information (subsection (5)).

Mynediad i fangre amhreswyl

Adran 90 – Mynediad i fangre amhreswyl gan ddeiliad dyletswydd

426. Mae'r adran hon yn gwneud darpariaeth i ddeiliad dyletswydd ar gyfer tŷ amlfeddiannaeth perthnasol wneud cais i dribiwnlys eiddo preswyl am orchymyn mynediad i fangre amhreswyl o dan amgylchiadau penodol, sef bod y deiliad dyletswydd wedi gwneud cais am fynediad i'r fangre amhreswyl, bod y cais yn cael ei wneud at ddiben a grybwyllir yn is-adran (2) ac na roddir mynediad i'r fangre. Rhaid i'r cais hefyd gydymffurfio â'r gofynion yn is-adran (3), mewn perthynas â galluogi mynediad i fangre amhreswyl sydd uwchben neu o dan tŷ amlfeddiannaeth perthnasol, pan fo meini prawf penodol wedi'u bodloni.

427. Cyfeirir at y fangre amhreswyl y mae'r adran hon yn gymwys iddi yn yr adran fel "mangre berthnasol". Mae'r term wedi ei ddiffinio yn is-adran (8).

428. Mae gorchymyn mynediad i fangre amhreswyl yn orchymyn sy'n ei gwneud yn ofynnol i'r person sydd â rheolaeth dros fynediad i'r fangre berthnasol ganiatáu i'r deiliad dyletswydd fynd i'r fangre ar adeg resymol at y diben a nodir yn y cais.

429. Caiff y tribiwnlys wneud gorchymyn mynediad i fangre amhreswyl os yw wedi ei fodloni ei fod yn angenrheidiol gwneud hynny at y diben a nodir yn y cais (is-adran (6)).

Cyffredinol

Adran 91 – Cydweithredu a chydlynu gan ddeiliaid dyletswydd

430. Mae is-adrannau (1) a (2) yn darparu, os oes mwy nag un deiliad dyletswydd ar gyfer tŷ amlfeddiannaeth perthnasol, bod rhaid iddynt, cyn belled ag y bo modd, gydweithredu a chydlynu â'i gilydd wrth gyflawni eu dyletswyddau o dan y Ddeddf hon a'r rheoliadau a wneir oddi tani.

431. Mae is-adrannau (3) a (4) yn darparu pan fo person yn ddeiliad dyletswydd ar gyfer tŷ amlfeddiannaeth perthnasol a gynhwysir mewn adeilad rheoleiddiedig, bod rhaid iddynt, cyn belled ag y bo modd, gydweithredu a chydlynu â phob person atebol ar gyfer yr adeilad hwnnw wrth gyflawni eu dyletswyddau o dan y Ddeddf a'r rheoliadau a wneir oddi tani.

432. Mae gorchymyn mesurau arbennig yn orchymyn a wneir o dan adran 109 sy'n penodi person i fod yn rheolwr mesurau arbennig ar gyfer yr adeilad, i gyflawni swyddogaethau diogelwch adeilad un neu ragor o bersonau atebol ar gyfer yr adeilad. Os oes gorchymyn mesurau arbennig mewn grym ar gyfer adeilad categori 1, rhaid i ddeiliad dyletswydd gydweithredu â'r rheolwr mesurau arbennig a benodir gan y gorchymyn at ddibenion y rheolwr yn cyflawni ei swyddogaethau o dan y gorchymyn (is-adrannau (5) a (6)).

433. Os yw gorchymyn o dan adran 24 o Ddeddf Landlord a Thenant 1987 (p. 31) mewn grym sy'n penodi rheolwr i gyflawni unrhyw swyddogaethau diogelwch adeiladau mewn perthynas â'r adeilad rheoleiddiedig neu unrhyw ran ohono, rhaid i'r deiliad dyletswydd gydweithredu â'r rheolwr at ddibenion y rheolwr yn cyflawni ei "swyddogaethau diogelwch adeiladau" o dan y gorchymyn (is-adrannau (7) ac (8)). Diffinnir "swyddogaeth diogelwch adeiladau" at ddibenion is-adrannau (7) ac (8) yn is-adran (9).

Entry to non-residential premises

Section 90 - Entry to non-residential premises by duty holder

426. This section makes provision for a duty holder for a relevant HMO to apply to a residential property tribunal for a non-residential premises access order in certain circumstances. These are that the duty holder has requested entry to the non-residential premises, the request is made for a purpose mentioned in subsection (2) and entry to the premises is not given. The request must also comply with the requirements in subsection (3), in relation to enabling access to non-residential premises that are above or below a relevant HMO, where certain criteria are satisfied.

427. The non-residential premises to which this section applies are referred to in the section as "relevant premises". This term is defined in subsection (8).

428. A non-residential premises access order is an order that requires the person who has control over entry to the relevant premises to allow the duty holder to enter the premises at a reasonable time for the purpose set out in the request.

429. The tribunal may make a non-residential premises access order if it is satisfied that it is necessary to do so for the purpose set out in the request (subsection (6)).

General

Section 91 - Co-operation and co-ordination by duty holders

430. Subsections (1) and (2) provide that if there is more than one duty holder for a relevant HMO, they must, so far as possible, co-operate and co-ordinate with each other when carrying out their duties under this Act and regulations made under it.

431. Subsections (3) and (4) provide that where a person is a duty holder for a relevant HMO contained in a regulated building, they must, so far as possible, co-operate and co-ordinate with each accountable person for that building when carrying out their duties under the Act and regulations made under it.

432. A special measures order is an order made under section 109 appointing a person to be a special measures manager for the building, to carry out the building safety functions of one or more accountable persons for the building. If a special measures order is in force for a category 1 building, a duty holder must co-operate with the special measures manager appointed by the order for the purposes of the manager carrying out their functions under the order (subsections (5) and (6)).

433. If an order under section 24 of the Landlord and Tenant Act 1987 (c.31) is in force which appoints a manager to carry out any building safety functions in relation to the regulated building or any part of it, the duty holder must co-operate with the manager for the purposes of the manager carrying out their "building safety functions" under the order (subsections (7) and (8)). "Building safety function" for the purposes of subsections (7) and (8) is defined in subsection (9).

434. Rhaid i ddeiliad dyletswydd gydweithredu â phob person cyfrifol at ddibenion pob person cyfrifol yn cyflawni ei ddyletswyddau o dan y Gorchymyn Diwygio Rheoleiddio (Diogelwch Tân) 2005, (is-adrannau (10) ac (11)).

Adran 92 – Pŵer i gymhwyso'r Rhan hon i gartrefi symudol

435. Mae'r adran hon yn galluogi Gweinidogion Cymru i wneud rheoliadau i bennu amgylchiadau pan fo cartrefi symudol penodol, h.y. y rhai a feddiennir at ddibenion preswyl gan bersonau nad ydynt yn ffurfio un aelwyd, i'w trin fel pe baent yn dai amlfeddiannaeth perthnasol at ddibenion y Ddeddf. Caiff y rheoliadau ddarparu, mewn perthynas â chartrefi symudol o'r fath, nad yw unrhyw ddarpariaeth neu reoliadau a wneir oddi tanynt yn gymwys nac yn gymwys gydag addasiadau penodedig (is-adran (2)). Yn yr adran hon, mae i "cartref symudol" yr ystyr a roddir gan adran 60 o Ddeddf Cartrefi Symudol (Cymru) 2013.

436. Ni allai rheoliadau o dan yr adran hon ddarparu bod rhaid trin cartrefi symudol a feddiennir dros dro at ddibenion hamdden yn unig (pa un ai gan eu perchnogion, neu gan bobl sy'n eu rhentu gan berchennog) fel tai amlfeddiannaeth perthnasol.

Adran 93 – Dehongli

437. Mae'r adran hon yn diffinio termau a ddefnyddir yn y rhan hon o'r Ddeddf.

RHAN 3 – PWERAU GORFODI AC YMCHWILIO

Awdurdodau gorfodi

Adran 94 – Swyddogaethau gorfodi awdurdodau diogelwch tân ac awdurdodau diogelwch adeiladau

438. Diben yr adran hon yw gosod swyddogaethau gorfodi ar awdurdodau diogelwch tân ac awdurdodau diogelwch adeiladau, a nodi pa ofynion o dan y Ddeddf hon (a rheoliadau a wneir oddi tani) a pha ofynion o dan Orchymyn Diwygio Rheoleiddio (Diogelwch Tân) 2005, sydd gan bob "awdurdod gorfodi" y swyddogaeth o'u gorfodi. Caiff diffygion penodol mewn adeilad categori 1 neu gategori 2 arwain at risg diogelwch tân a risg diogelwch strwythurol, er enghraifft crac mewn wal cynnal pwysau. Mewn achos o'r fath mae'n bosibl y byddai'r ddau awdurdod yn cymryd camau gorfodi.

439. Mae is-adran (4) yn diffinio "awdurdod gorfodi" at ddibenion y Ddeddf, a defnyddir y term hwn mewn sawl lle yn y Ddeddf. Er enghraifft, o dan adran 96 gall "awdurdod gorfodi" roi hysbysiad cydymffurfio mewn rhai amgylchiadau, felly bydd angen i gyfeiriadau at adran 94 gael eu gwneud er mwyn penderfynu pwy yw'r "awdurdod gorfodi".

Pwerau awdurdodau gorfodi i roi hysbysiadau

Adran 95 – Pŵer awdurdod gorfodi i roi hysbysiad gwybodaeth

440. Diben yr adran hon yw galluogi i geisiadau am wybodaeth gael eu gwneud gan awdurdod gorfodi o dan amgylchiadau penodol, gyda chanlyniadau pe bai person yn methu â chydymffurfio â cheisiadau o'r fath. Mae methu â chydymffurfio â hysbysiad gwybodaeth yn drosedd o dan adran 101 (yn ddarostyngedig i'r amddiffyniad a fanylir yn adran 101(2)), gweler hefyd adran 101(4)).

434. A duty holder must co-operate with each responsible person for the purposes of each responsible person carrying out their duties under the Regulatory Reform (Fire Safety) Order 2005, (subsections (10) and (11)).

Section 92 - Power to apply this Part to mobile homes

435. This section enables the Welsh Ministers to make regulations to specify circumstances in which certain mobile homes i.e. those occupied for residential purposes by persons who do not form a single household, are to be treated as though they are relevant HMOs for the purposes of the Act. The regulations may provide that in relation to such mobile homes, any provision or regulations made under it do not apply or apply with specified modifications (subsection (2)). In this section "mobile home" has the meaning given by section 60 of the Mobile Homes (Wales) Act 2013.

436. Regulations under this section could not provide that mobile homes that are only occupied temporarily for leisure purposes (whether by their owners, or by people renting them from an owner) must be treated as relevant HMOs.

Section 93 - Interpretation

437. This section defines terms that are used in this part of the Act.

PART 3 - ENFORCEMENT AND INVESTIGATORY POWERS

Enforcing authorities

Section 94 - Enforcement functions of fire safety authorities and building safety authorities

438. The purpose of this section is to place enforcement functions on fire safety authorities and building safety authorities, and to identify what requirements under this Act (and regulations made under it) and what requirements under the Regulatory Reform (Fire Safety) Order 2005, each "enforcing authority" has the function of enforcing. Certain defects in a category 1 or category 2 building may result in both a fire safety risk and a structural safety risk, for example a crack in a load-bearing wall. In such a case it is possible that both authorities would take enforcement action.

439. Subsection (4) defines "enforcing authority" for the purposes of the Act, and this term is used in many places in the Act. For example, under section 96 an "enforcing authority" can give a compliance notice in certain circumstances, so reference to section 94 will need to be made so as to determine who the "enforcing authority" is.

Powers of enforcing authorities to give notices

Section 95 - Power of enforcing authority to give information notice

440. The purpose of this section is to enable requests for information to be made by an enforcing authority in certain circumstances, with there being consequences should a person fail to comply with such requests. Failure to comply with an information notice is an offence under section 101 (subject to the defence detailed in section 101(2)), see also section 101(4)).

441. Mae is-adran (1) yn darparu y caiff awdurdod gorfodi roi hysbysiad gwybodaeth i unrhyw berson at ddibenion ymchwilio i gydymffurfiaeth ag unrhyw ofyniad bod ganddynt y swyddogaeth o orfodi, neu o arfer unrhyw swyddogaeth arall yr awdurdod o dan y Ddeddf neu reoliadau a wneir oddi tani.

442. Mae gweddill yr adran yn gwneud darpariaeth mewn cysylltiad â hysbysiadau gwybodaeth, gan gynnwys cyfyngiadau ar yr hyn y'i caniateir ei wneud yn ofynnol ei ddarparu (is-adran (4)), bod rhaid iddynt gynnwys esboniad ynghylch canlyniadau methu â chydymffurfio â hysbysiad (is-adran (5)(a)) a darpariaeth ynghylch derbynioldeb mewn tystiolaeth wybodaeth a ddarperir o dan yr adran hon (is-adran (7)).

Adran 96 – Pŵer awdurdod gorfodi i roi hysbysiad cydymffurfio

443. Mae'r adran hon yn galluogi awdurdod gorfodi i roi hysbysiad cydymffurfio i unrhyw berson y mae'n ystyried ei fod wedi torri, yn torri neu'n debygol o dorri gofyniad y mae gan yr awdurdod y swyddogaeth o'i orfodi.

444. Rhaid i hysbysiad cydymffurfio ei gwneud yn ofynnol i'r person wneud, o fewn amser penodedig, un neu ragor o'r pethau a nodir yn is-adran (2).

445. Mae is-adran (3) yn darparu y caiff yr awdurdod gorfodi ddatgan bod yr hysbysiad yn "hysbysiad gweithredu ar frys", os yw'n ystyried bod torri wedi gosod, neu y bydd yn gosod, bobl yn yr adeilad rheoleiddiedig neu'r tŷ amlfeddiannaeth perthnasol neu o'i amgylch mewn perygl sydd ar fin digwydd.

446. Mae is-adran (4) yn darparu, ar yr un pryd â rhoi hysbysiad cydymffurfio, fod rhaid i'r awdurdod gorfodi roi datganiad i'r person sy'n crynhoi gofynion yr hysbysiad, sy'n esbonio canlyniadau methu â chydymffurfio ac sy'n hysbysu'r derbynnydd o'i hawl i apelio. Pan roddir hysbysiad cydymffurfio, rhaid hysbysu eraill penodol (is-adrannau (5) a (6)).

447. Mae adran 97(5) a (6) yn gwneud darpariaeth ynghylch effaith apêl yn erbyn hysbysiad cydymffurfio a hysbysiad cydymffurfio sy'n hysbysiad gweithredu ar frys.

448. Mae methu â chydymffurfio â hysbysiad cydymffurfio yn drosedd o dan adran 101 (yn ddarostyngedig i'r amddiffyniad a fanylir yn adran 101(2)), gweler hefyd adran 101(4).

Adran 97 – Apêl yn erbyn hysbysiad cydymffurfio

449. Diben yr adran hon yw galluogi person y rhoddwyd hysbysiad cydymffurfio iddo i apelio i'r tribiwnlys eiddo preswyl yn erbyn yr hysbysiad. Mae'r adran yn cynnwys darpariaethau cysylltiedig, gan gynnwys mewn perthynas â therfynau amser ar gyfer cyflwyno apêl, seiliau'r apêl a'r hyn y caiff y tribiwnlys benderfynu.

441. Subsection (1) provides that an enforcing authority may give an information notice to any person for the purposes of investigating compliance with any requirement that they have the function of enforcing, or exercising any other function of the authority under the Act or regulations made under it.

442. The remainder of the section makes provision in respect of information notices, including limitations on what may be required to be provided (subsection (4)), that it must include an explanation as to the consequences of failing to comply with a notice (subsection (5)(a)) and provision about the admissibility in evidence of information provided under this section (subsection (7)).

Section 96 - Power of enforcing authority to give compliance notice

443. This section enables an enforcing authority to give a compliance notice to any person it considers has contravened, is contravening or is likely to contravene, a requirement that the authority has the function of enforcing.

444. A compliance notice must require the person to do, within a specified time, one or more of the things set out in subsection (2).

445. Subsection (3) provides that the enforcing authority may state that the notice is an "urgent action notice", if it considers that a contravention has placed or will place people in or about the regulated building or relevant HMO in imminent danger.

446. Subsection (4) provides that, at the same time as giving a compliance notice, the enforcing authority must give the person a statement that summarises the requirements of the notice, explains the consequences of failing to comply and informs the recipient of their right to appeal. Where a compliance notice is given certain others must be informed (subsections (5) and (6)).

447. Section 97(5) and (6) make provision as to the effect of an appeal against a compliance notice and a compliance notice that is an urgent action notice.

448. Failure to comply with a compliance notice is an offence under section 101 (subject to the defence detailed in section 101(2)), see also section 101(4).

Section 97 - Appeal against compliance notice

449. The purpose of this section is to enable a person to whom a compliance notice has been given to appeal, to the residential property tribunal, against the notice. The section includes related provisions, including in relation to time limits for bringing an appeal, the grounds of appeal and what the tribunal may decide.

450. Mae is-adrannau (5) a (6) yn darparu ar gyfer effaith apêl ar hysbysiad cydymffurfio. Oni bai bod yr hysbysiad yn hysbysiad gweithredu ar frys, ni fydd yr hysbysiad cydymffurfio yn cael unrhyw effaith hyd nes y penderfynir yn derfynol ar yr apêl neu os caiff ei dynnu'n ôl a bod y cyfnod ar gyfer cydymffurfio â'r hysbysiad yn cael ei estyn yn unol ag is-adran (5)(b). Os yw'r hysbysiad cydymffurfio yn hysbysiad gweithredu ar frys, nid yw effaith yr hysbysiad hwnnw yn cael ei atal dros dro mewn achos o apêl i'r tribiwnlys eiddo preswyl, oni bai bod y tribiwnlys yn dyroddi cyfarwyddyd sy'n nodi fel arall (gweler is-adran (6)).

Adran 98 – Pŵer yr awdurdod diogelwch tân i roi hysbysiad gwahardd

451. Mae'r adran hon yn galluogi awdurdod diogelwch tân i ddyroddi hysbysiad gwahardd mewn cysylltiad ag adeilad rheoleiddiedig neu dŷ amlfeddiannaeth perthnasol pan fo'n ystyried bod defnydd o'r adeilad neu'r tŷ amlfeddiannaeth yn cynnwys, neu'n debygol o gynnwys, risg diogelwch tân sydd mor ddifrifol fel y dylid gwahardd neu gyfyngu ar ddefnydd o'r adeilad neu'r tŷ amlfeddiannaeth. Mae is-adran (2) yn darparu y gellir rhoi hysbysiad gwahardd i berson atebol, neu berson sy'n cael ei drin fel person atebol o dan adran 36 (ar gyfer adeilad rheoleiddiedig) neu ddeiliad dyletswydd (ar gyfer tŷ amlfeddiannaeth perthnasol). Mae'r adran hon yn cynnwys darpariaeth arall sy'n ymwneud â hysbysiadau gwahardd e.e. yr hyn y mae rhaid ei gynnwys yn yr hysbysiad a gofynion mewn perthynas â hysbysu eraill (is-adrannau (8) a (9)).

452. Ar hyn o bryd gellir dyroddi hysbysiadau gwahardd o dan erthygl 31 o'r Gorchymyn Diogelwch Tân (GDT). Dyma'r mesur llymaf sydd ar gael i awdurdod gorfodi, i'w ddefnyddio dim ond pan fo'r trothwy yn is-adran (1) yn cael ei fodloni. Mae is-adran (5) yn gwneud darpariaeth i hysbysiadau gwahardd ddod i rym cyn gynted ag y'u rhoddir mewn amgylchiadau penodol. Mae adran 98 yn gwneud darpariaeth debyg i'r ddarpariaeth yn y GDT, ond mae hefyd yn nodi materion ychwanegol e.e. camau y mae rhaid i'r derbynnydd eu cymryd o dan is-adran (6).

453. O ystyried effaith bosibl hysbysiad ar yr adeilad a'i breswylwyr, mae is-adran (6) yn ei gwneud yn ofynnol i'r derbynnydd gymryd pob cam rhesymol i sicrhau bod meddianwyr yr adeilad neu'r tŷ amlfeddiannaeth yn cael eu hysbysu o unrhyw waharddiad neu gyfyngiad yn yr hysbysiad a chymryd pob cam rhesymol i sicrhau bod y defnydd o'r adeilad neu'r tŷ amlfeddiannaeth yn cael ei atal neu ei gyfyngu yn unol â gofynion yr hysbysiad. Mae is-adran (7) yn gwneud darpariaeth mewn perthynas ag arddangos copi o'r hysbysiad mewn lle amlwg wrth bob mynedfa i'r adeilad neu'r tŷ amlfeddiannaeth perthnasol. Mae hyn yn bwysig i sicrhau bod pawb yr effeithir arnynt yn ymwybodol o'r hysbysiad gan gynnwys unrhyw waharddiadau a chyfyngiadau ynddo, a'r materion sy'n arwain at y risgiau.

454. Mae torri gwaharddiad neu gyfyngiad mewn hysbysiad gwahardd a methu â chydymffurfio ag is-adran (6) yn droseddau o dan adran 101 (yn ddarostyngedig i'r amddiffyniad a fanylir yn adran 101(2)), gweler hefyd adran 101(4).

450. Subsections (5) and (6) provide for the effect of an appeal on a compliance notice. Unless the notice is an urgent action notice, the compliance notice will have no effect pending the final determination or withdrawal of the appeal and the period for complying with the notice is extended in accordance with subsection (5)(b). If the compliance notice is an urgent action notice, the effect of that notice is not suspended in the event of an appeal to the residential property tribunal, unless the tribunal issues a direction stating otherwise (see subsection (6)).

Section 98 - Power of fire safety authority to give prohibition notice

451. This section enables a fire safety authority to issue a prohibition notice in respect of a regulated building or a relevant HMO where it considers that the use of the building or HMO involves, or is likely to involve, a fire safety risk that is so serious that use of the building or HMO should be prohibited or restricted. Subsection (2) provides that a prohibition notice can be given to an accountable person, or a person treated as an accountable person under section 36 (for a regulated building) or a duty holder (for a relevant HMO). This section includes other provision related to prohibition notices e.g. what must be included in the notice and requirements in relation to informing others (subsections (8) and (9)).

452. Prohibition notices can currently be issued under article 31 of the FSO. They are the most stringent measure available to an enforcing authority, for use only where the threshold in subsection (1) is met. Subsection (5) makes provision for prohibition notices to take effect as soon as given in certain circumstances. Section 98 makes similar provision to that in the FSO, but it also sets out additional matters e.g. steps that must be taken under subsection (6) by the recipient.

453. Given the potential impact of a notice on the building and its residents, subsection (6) requires the recipient to take all reasonable steps to ensure occupiers of the building or HMO are informed of any prohibition or restriction in the notice and take all reasonable steps to ensure use of the building or HMO is prevented or restricted as per the requirements of the notice. Subsection (7) makes provision in relation to the displaying of a copy of the notice in a conspicuous place at each entrance to the building or relevant HMO. This is important to ensure all those affected are aware of the notice including any prohibitions and restrictions within it, and the matters giving rise to the risks.

454. Contravention of a prohibition or restriction in a prohibition notice and failing to comply with subsection (6) are offences under section 101 (subject to the defence detailed in section 101(2)), see also section 101(4).

Adran 99 – Apêl yn erbyn hysbysiad gwahardd

455. Mae'r adran hon yn galluogi personau penodol i apelio i dribiwnlys eiddo preswyl yn erbyn hysbysiad gwahardd. Mae'r personau sy'n gallu apelio wedi eu nodi yn is-adran (2) ac maent yn cynnwys personau atebol, preswylwyr unedau preswyl a pherchnogion unedau preswyl (mewn cysylltiad ag adeiladau rheoleiddiedig) a deiliaid dyletswydd a meddianwyr (mewn perthynas â thai amlfeddiannaeth perthnasol). Caniateir gwneud apêl ar un neu ragor o'r seiliau yn is-adran (4).

456. Yn wahanol i hysbysiad cydymffurfio (ac eithrio hysbysiad gweithredu ar frys), nid yw hysbysiad gwahardd yn cael ei atal dros dro yn awtomatig hyd nes y bydd apêl, er y gall y tribiwnlys gyfarwyddo hyn (is-adran (5)). Mae hyn oherwydd bod y trothwy risg ar gyfer hysbysiad gwahardd yn fwy, ac ni fyddai'n briodol gwneud pobl, gan gynnwys preswylwyr, yn agored i'r lefel honno o risg tra bod apêl yn cael ei glywed.

457. Mae is-adran (6) yn darparu, wrth benderfynu apêl, y caiff y tribiwnlys:

- cadarnhau'r hysbysiad,
- amrywio'r hysbysiad e.e. i newid ardal yr adeilad y mae gwaharddiadau yn gymwys iddo neu amrywio cyfyngiadau ar ei ddefnydd, neu
- diddymu'r hysbysiad.

458. Mae is-adran (7) yn darparu pŵer i wneud rheoliad i Weinidogion Cymru ddiwygio'r rhestr o'r rhai sy'n gallu apelio yn erbyn hysbysiad gwahardd.

Adran 100 – Hysbysiadau: atodol

459. Mae'r adran hon yn rhoi pŵer i Weinidogion Cymru wneud rheoliadau i wneud darpariaethau pellach ynghylch hysbysiadau gwybodaeth, hysbysiadau cydymffurfio a hysbysiadau gwahardd. Mae is-adrannau (2) i (5) yn cynnwys enghreifftiau o'r darpariaethau y caniateir eu cynnwys mewn rheoliadau o'r fath.

Adran 101 – Hysbysiadau: troseddau

460. Mae'r adran hon yn ei gwneud yn drosedd i berson fethu â chydymffurfio â hysbysiad gwybodaeth, neu hysbysiad cydymffurfio a roddir iddo. Mae hefyd yn ei gwneud yn drosedd i berson dorri gwaharddiad neu gyfyngiad mewn hysbysiad gwahardd, ac i fethu â chydymffurfio ag adran 98(6) (camau i'w cymryd gan dderbynnydd hysbysiad gwahardd). Mae is-adran (2) yn darparu ei bod yn amddiffyniad i berson brofi bod gan y person esgus rhesymol dros y methiant neu'r toriad.

461. Os ceir person yn euog o drosedd o dan is-adran (1) mewn llys ynadon, caiff y llys osod dirwy neu gyfnod o garchar, neu'r ddau. Nid oes terfyn uchaf ar swm y ddirwy. Uchafswm y cyfnod o garchar yw 12 mis (sef y "terfyn cymwys" a nodir yn adran 224(1A) (b) o'r Cod Dedfrydu, a gynhwysir yn Neddf Dedfrydu 2020 (p. 17)).

462. Os ceir person yn euog o drosedd o dan is-adran (1) yn llys y Goron, caiff y llys osod dirwy neu gyfnod o garchar, neu'r ddau. Nid oes terfyn uchaf ar swm y ddirwy. Uchafswm y cyfnod o garchar yw 2 flynedd.

463. Mae person sydd wedi ei euogfarnu o drosedd o dan is-adran (1) yn cyflawni trosedd bellach os yw'r methiant neu'r toriad yn parhau ar ôl yr euogfarn (is-adran (4)).

Section 99 - Appeal against prohibition notice

455. This section enables certain persons to appeal to a residential property tribunal against a prohibition notice. The persons who can appeal are set out in subsection (2) and include accountable persons, residents in and owners of residential units (in respect of regulated buildings) and duty holders and occupiers (in respect of relevant HMOs). An appeal may be made on one or more of the grounds in subsection (4).

456. Unlike a compliance notice (other than an urgent action notice), a prohibition notice is not automatically suspended pending an appeal, although the tribunal can direct this (subsection (5)). This is because the risk threshold for a prohibition notice is greater, and it would not be appropriate to expose people, including residents, to that level of risk while an appeal is heard.

457. Subsection (6) provides that, in determining an appeal, the tribunal may:

- uphold the notice,
- vary the notice e.g. to change the area of the building to which prohibitions apply or vary restrictions on use, or
- quash the notice.

458. Subsection (7) provides a regulation making power for Welsh Ministers to amend the list of those who can appeal a prohibition notice.

Section 100 - Notices: supplementary

459. This section provides a power for the Welsh Ministers to make regulations to make further provisions about information notices, compliance notices and prohibition notices. Subsections (2) to (5) give examples of the provisions that may be included in such regulations.

Section 101 - Notices: offences

460. This section makes it an offence for a person to fail to comply with an information notice, or compliance notice given to them. It also makes it an offence for a person to contravene a prohibition or restriction in a prohibition notice, and to fail to comply with section 98(6) (steps to be taken by the recipient of a prohibition notice). Subsection (2) provides that it is a defence for a person to prove that the person has a reasonable excuse for the failure or contravention.

461. If a person is found guilty of an offence under subsection (1) in a magistrates' court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 12 months (which is the "applicable limit" set out in section 224(1A) (b) of the Sentencing Code, contained in the Sentencing Act 2020 (c. 17)).

462. If a person is found guilty of an offence under subsection (1) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years.

463. A person who has been convicted of an offence under subsection (1), commits a further offence if the failure or contravention continues after the conviction (subsection (4)).

464. Byddai trosedd o dan is-adran (4) yn cael ei rhoi ar brawf mewn llys ynadon. Os y'i ceir yn euog o'r drosedd bellach, caniateir codi dirwy ar y person am bob diwrnod y mae'r toriad yn parhau (is-adran (5)). Mae'r raddfa safonol o ddirwyon wedi ei nodi yn adran 122 o Ddeddf Dedfrydu 2020.

Swyddogaethau swyddogion awdurdodedig

Adran 102 – Swyddogion awdurdodedig ac ystyr "diben perthnasol"

465. Dim ond swyddog y rhoddwyd yr awdurdod iddo gyflawni'r swyddogaeth honno ("swyddog awdurdodedig") y caiff arfer rhai swyddogaethau'r awdurdod diogelwch adeiladau neu'r awdurdod diogelwch tân, gweler adrannau 103 i 105. Mae'r adran hon yn gwneud darpariaeth mewn cysylltiad â "swyddogion awdurdodedig".

466. Gwneir darpariaeth ar gyfer y modd y mae rhaid rhoi awdurdodiad (is-adrannau (1) a (3)) a sut y caniateir ei amrywio neu ei ddirymu (is-adran (4)). Mae is-adran (2) yn darparu y caiff awdurdod gorfodi ond awdurdodi person i arfer swyddogaethau y mae'r awdurdod yn ystyried bod y person wedi ei gymhwyso'n briodol i'w harfer.

467. Mae is-adran (5) yn golygu bod rhaid i'r swyddog awdurdodedig, os gofynnir iddo wrth geisio arfer swyddogaeth y swyddog, gyflwyno tystiolaeth o'r awdurdodiad.

468. Mae is-adran (6) yn diffinio term allweddol at ddibenion Rhan 3, gan gynnwys "diben perthnasol" mewn perthynas â swyddog awdurdodedig. Defnyddir y term hwn wedyn mewn amryw ddarpariaeth yn Rhan 3, e.e. o dan adran 103(1), caiff swyddog awdurdodedig fynd i fangre nad yw'n cael ei defnyddio fel uned breswyl, pan fo o'r farn ei bod yn angenrheidiol mynd i mewn at ddiben "perthnasol" (ac mae'r meini prawf yn adran 103(1)(b) wedi eu bodloni).

Adran 103 – Pŵer i fynd i fangre nad yw'n cael ei defnyddio fel uned breswyl

469. Mae'r adran hon yn rhoi pŵer i "swyddog awdurdodedig" fynd i fangre nad yw'n cael ei defnyddio fel uned breswyl pan fodlonir meini prawf penodol. Mae hefyd yn gwneud darpariaeth gysylltiedig, gan gynnwys am fynediad gan ddefnyddio grym a phryd y gall ynad heddwch ddyroddi gwarant.

470. Wrth ymchwilio i gydymffurfio â gofyniad, efallai y bydd angen i swyddog awdurdodedig fynd i fangre nad yw'n cael ei defnyddio fel uned breswyl. Er enghraifft, gall fod dogfennaeth neu dystiolaeth arall yn y fangre honno y gallai fod angen i'r swyddog gael mynediad iddynt, neu efallai bod angen i'r swyddog awdurdodedig gael mynediad i'r safle i benderfynu pa un a gydymffurfir â dyletswyddau i asesu a rheoli risgiau diogelwch adeiladau.

471. Mae is-adran (2) yn darparu y caiff y swyddog awdurdodedig fynd i mewn drwy rym os yw'r swyddog o'r farn ei bod yn angenrheidiol at ddiben perthnasol (a allai fod, i ymchwilio i gydymffurfiaeth â gofyniad o dan y Ddeddf hon), ond dim ond pan fo gwarant i wneud hynny wedi ei dyroddi gan ynad heddwch o dan is-adran (3).

Adran 104 – Pŵer i fynd i fangre sy'n cael ei defnyddio fel uned breswyl

472. Wrth ymchwilio i gydymffurfiaeth â gofyniad, efallai y bydd angen i swyddog awdurdodedig fynd i uned breswyl. Er enghraifft, efallai y bydd angen i'r swyddog fynd i'r uned i ymchwilio pa un a chydymffurfir â dyletswyddau i asesu a rheoli risgiau diogelwch adeiladau neu a chydymffurfir â'r dyletswyddau ar breswylwyr.

464. An offence under subsection (4) would be tried in a magistrates' court. If found guilty of the further offence the person may be fined for each day on which the contravention continues (subsection (5)). The standard scale of fines is set out in section 122 of the Sentencing Act 2020.

Functions of authorised officers

Section 102 - Authorised officers and meaning of "relevant purpose"

465. Some functions of the building safety authority or fire safety authority can only be exercised by an officer that has been provided with the authority to carry out that function (an "authorised officer"), see sections 103 to 105. This section makes provision in respect of "authorised officers".

466. Provision is made for the way in which an authorisation must be given (subsections (1) and (3)) and how it may be varied or revoked (subsection (4)). Subsection (2) provides an enforcing authority may only authorise a person to exercise functions that it considers the person suitably qualified to exercise.

467. Subsection (5) means that the authorised officer must, if asked when seeking to exercise a function of the officer, produce evidence of the authorisation.

468. Subsection (6) defines key term for the purpose of Part 3, including "relevant purpose" in relation to an authorised officer. This term is then used in various provisions in Part 3 e.g. under section 103(1) an authorised officer may enter premises not being used as a residential unit where they consider it necessary to enter for a "relevant purpose" (and the criteria in section 103(1)(b) are satisfied).

Section 103 - Power to enter premises not being used as a residential unit

469. This section gives an "authorised officer" power to enter premises that are not being used as a residential unit where certain criteria are met. It also makes related provision, including about entry using force and when a justice of the peace can issue a warrant.

470. When investigating compliance with a requirement, an authorised officer may need to enter premises that is not being used as a residential unit. For example, there may be documentation or other evidence in that premises that the officer may need to access, or it may be that the authorised officer requires access to the premises to determine whether duties to assess and manage building safety risks are being complied.

471. Subsection (2) provides that the authorised officer may enter by force if the officer considers it necessary for a relevant purpose (which might be, to investigate compliance with a requirement under this Act), but only where a warrant to do so has been issued by a justice of the peace under subsection (3).

Section 104 - Power to enter premises being used as a residential unit

472. When investigating compliance with a requirement, an authorised officer may need to enter a residential unit. For example, the officer may need to enter the unit to investigate whether duties to assess and manage building safety risks are being complied or whether the duties on residents are being complied with.

473. Mae'r adran hon yn darparu pŵer i swyddog awdurdodedig fynd i fangre sy'n cael ei defnyddio fel uned breswyl pan fo'r swyddog yn ystyried ei bod yn angenrheidiol at ddiben perthnasol, a bod gwarant sy'n awdurdodi mynediad wedi ei dyroddi gan ynad heddwch o dan is-adran (2).

474. Mae is-adran (2) yn darparu ar gyfer yr amgylchiadau pan ganiateir rhoi gwarant mynediad i swyddog awdurdodedig gan ynad heddwch. Mae hyn yn sicrhau y bydd ystyriaeth yn cael ei rhoi o ran yr angen am fynediad, ac e.e. pa un a yw'r swyddog awdurdodedig wedi cymryd camau priodol i gael mynediad heb warant.

475. Mae is-adran (3) yn darparu bod gwarant a ddyroddir o dan is-adran (2) yn awdurdodi swyddog i fynd i'r fangre a bennir yn y warant. Caiff y warant, os yw'r ynad heddwch o'r farn ei bod yn angenrheidiol, awdurdodi'r swyddog i fynd i'r fangre drwy rym (os oes angen), neu i arfer unrhyw un neu ragor o'r swyddogaethau o dan adran 105. Gall hefyd bennu pryd, neu pa mor aml, y caiff mynediad ddigwydd.

Adran 105 – Pwerau mynediad: atodol

476. Mae'r adran hon yn gymwys pan fo swyddog awdurdodedig yn arfer pwerau mynediad i fangre nad yw'n cael ei defnyddio fel uned breswyl. Mae hefyd yn gymwys pan fo swyddog awdurdodedig yn arfer pwerau mynediad i uned breswyl ond dim ond i'r graddau a bennir yn y warant – gweler adran 104(3)(b)(i).

477. Mae is-adran (2) yn darparu ar gyfer rhestr o bethau y caiff y swyddog awdurdodedig eu gwneud wrth arfer y pwerau hynny. Mae hyn yn cynnwys, er enghraifft, y cânt gymryd samplau o unrhyw beth, tynnu ffotograffau o unrhyw beth, neu wneud recordiadau.

Adran 106 – Swyddogion awdurdodedig: troseddau

478. Mae is-adran (1) yn ei gwneud yn drosedd os yw person, gyda'r bwriad o dwyllo, yn dynwared swyddog awdurdodedig (is-adran (1)). Mae is-adran (3) yn ei gwneud yn drosedd os yw person yn rhwystro'n fwriadol swyddog awdurdodedig sy'n arfer, neu'n ceisio arfer, unrhyw swyddogaeth o dan Ran 3 (is-adran (3)).

479. Mae person sy'n euog o naill drosedd neu'r llall yn agored ar euogfarn ddiannod i ddirwy. Nid oes terfyn uchaf ar swm y ddirwy.

Troseddau

Adran 107 – Toriad sy'n arwain at risg o farwolaeth neu anaf difrifol

480. Mae is-adran (1) yn darparu ei bod yn drosedd i berson atebol ar gyfer adeilad rheoleiddiedig (neu berson sy'n cael ei drin fel person atebol oherwydd adran 36) dorri gofyniad a osodir arno gan y Ddeddf neu reoliadau a wneir oddi tani, pan fo'r toriad hwnnw'n gosod un neu ragor o bersonau yn yr adeilad neu o'i amgylch mewn risg sylweddol o farwolaeth neu anaf difrifol sy'n deillio o risg diogelwch adeilad.

481. Mae is-adran (2) yn darparu ei bod yn drosedd i ddeiliad dyletswydd ar gyfer tŷ amlfeddiannaeth perthnasol fynd yn groes i ofyniad a osodir arno gan y Ddeddf neu reoliadau a wneir oddi tani, pan fo'r toriad hwnnw'n rhoi un neu ragor o bersonau yn y tŷ amlfeddiannaeth perthnasol neu o'i amgylch mewn risg sylweddol o farwolaeth neu anaf difrifol sy'n deillio o risg diogelwch tân.

473. This section provides a power for an authorised officer to enter premises being used as a residential unit where the officer considers it necessary for a relevant purpose, and a warrant authorising entry has been issued by a justice of the peace under subsection (2).

474. Subsection (2) provides for the circumstances in which a warrant of entry may be issued to an authorised officer by a justice of the peace. This ensures that consideration will be given as to the need for entry, and e.g. whether appropriate steps have been taken by the authorised officer to gain entry without a warrant.

475. Subsection (3) provides that a warrant issued under subsection (2) authorises an officer to enter the premises specified in the warrant. The warrant may, if the justice of the peace considers it necessary, authorise the officer to enter the premises by force (if necessary), or to exercise any of the functions under section 105. It can also specify when, or how often, entry may take place.

Section 105 - Powers of entry: supplementary

476. This section applies where an authorised officer is exercising powers of entry to premises not being used as a residential unit. It also applies where an authorised officer is exercising powers of entry to a residential unit but only to the extent specified in the warrant – see section 104(3)(b)(i).

477. Subsection (2) provides for a list of things that the authorised officer may do when exercising those powers. This includes, for example, that they can take samples of anything, take photographs of anything, or make recordings.

Section 106 - Authorised officers: offences

478. Subsection (1) makes it an offence if, with intent to deceive, a person impersonates an authorised officer (subsection (1)). Subsection (3) makes it an offence if a person intentionally obstructs an authorised officer exercising, or seeking to exercise, any function under Part 3 (subsection (3)).

479. A person guilty of either offence will be liable on summary conviction to a fine. There is no maximum limit on the amount of the fine.

Offences

Section 107 - Contravention giving rise to risk of death or serious injury

480. Subsection (1) provides that it is an offence for an accountable person for a regulated building (or a person treated as an accountable person because of section 36) to contravene a requirement imposed on them by the Act or regulations made under it, where that contravention places one or more persons in or about the building at a significant risk of death or serious injury arising from a building safety risk.

481. Subsection (2) provides that it is an offence for a duty holder for a relevant HMO to contravene a requirement imposed on them by the Act or regulations made under it, where that contravention places one or more persons in or about the relevant HMO at a significant risk of death or serious injury arising from a fire safety risk.

482. Mae'n amddiffyniad i'r troseddau o dan yr adran hon bod y person wedi cymryd pob cam rhesymol i osgoi cyflawni'r drosedd (is-adran (7)).

483. Diben yr adran hon yw gwneud darpariaeth, ar gyfer y toriadau mwyaf difrifol o ofynion o dan y Ddeddf gan bersonau atebol a deiliaid dyletswydd, i'r awdurdod gorfodi allu symud yn uniongyrchol i'w erlyn am y toriad (yn hytrach na'r awdurdod yn cyflwyno hysbysiad cydymffurfio yn gyntaf o dan adran 96 sy'n ei gwneud yn ofynnol i'r person atebol neu'r deiliad dyletswydd gymryd camau penodol).

484. Os ceir person yn euog o drosedd o dan is-adran (1) neu (2) mewn llys ynadon, caiff y llys osod dirwy neu gyfnod o garchar, neu'r ddau. Nid oes terfyn uchaf ar swm y ddirwy. Uchafswm y cyfnod o garchar yw 12 mis (sef y "terfyn cymwys" a nodir yn adran 224(1A)(b) o'r Cod Dedfrydu, a chynhwysir y Cod Dedfrydu yn Neddf Dedfrydu 2020 (p. 17)).

485. Os ceir person yn euog o drosedd o dan is-adran (1) neu (2) yn llys y Goron, caiff y llys osod dirwy neu gyfnod o garchar, neu'r ddau. Nid oes terfyn uchaf ar swm y ddirwy. Uchafswm y cyfnod o garchar yw 2 flynedd.

486. Mae person sydd wedi ei euogfarnu o drosedd o dan is-adran (1) neu (2) yn cyflawni trosedd bellach os yw'n parhau i dorri'r gofyniad o dan sylw (is-adran (5)).

487. Byddai trosedd o dan is-adran (5) yn cael ei rhoi ar brawf mewn llys ynadon. Os y'i ceir yn euog o'r drosedd bellach, caniateir codi dirwy ar y person am bob diwrnod y mae'r toriad yn parhau (is-adran (6)). Mae'r raddfa safonol o ddirwyon wedi ei nodi yn adran 122 o Ddeddf Dedfrydu 2020.

488. Effaith is-adran (3) yw nad yw'r troseddau o dan is-adrannau (1) a (2) yn gymwys i unrhyw beth sy'n drosedd o dan unrhyw ddarpariaeth arall o'r Ddeddf hon ac sy'n ddarostyngedig i'r un gosb â throsedd o dan is-adran (1) neu (2).

Adran 108 – Gwybodaeth anwir a chamarweiniol

489. Diben yr adran hon yw ei gwneud yn ofynnol i wybodaeth sydd naill ai'n cael ei chadw neu ei rhannu â'r awdurdodau gorfodi mewn perthynas â gofynion o dan y Ddedf hon beidio â bod yn anwir neu'n gamarweiniol a'i gwneud yn ofynnol i berson sy'n gyfrifol am yr wybodaeth beidio â bod yn ddi-hid ynghylch pa un a yw'n anwir neu'n gamarweiniol. Mae gwybodaeth gywir yn bwysig wrth asesu a rheoli risgiau diogelwch adeilad.

490. Mae is-adran (1) yn darparu ei bod yn drosedd i berson a chanddo ddyletswydd o dan y Ddeddf hon(neu o dan reoliadau a wneir oddi tani) i gofnodi neu gadw gwybodaeth, i gynnwys yn yr wybodaeth honno unrhyw wybodaeth y mae'r person yn gwybod ei bod yn anwir mewn ffordd berthnasol.

491. Caniateir rhoi ar brawf drosedd o dan is-adran (1) mewn llys ynadon neu Lys y Goron. Caiff y llys osod dirwy. Nid oes terfyn uchaf ar swm y ddirwy.

482. It is a defence to the offences under this section that the person took all reasonable steps to avoid committing the offence (subsection (7)).

483. The purpose of this section is to make provision, for the most serious breaches of requirements under the Act by accountable persons and duty holders, for the enforcement authority to be able to move directly to prosecution for the breach (as opposed to the authority first serving a compliance notice under section 96 requiring the accountable person or duty holder to take certain steps).

484. If a person is found guilty of an offence under subsection (1) or (2) in a magistrates' court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 12 months (which is the "applicable limit" set out in section 224(1A) (b) of the Sentencing Code; the Sentencing Code is contained in the Sentencing Act 2020 (c. 17)).

485. If a person is found guilty of an offence under subsection (1) or (2) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years.

486. A person who has been convicted of an offence under subsection (1) or (2) commits a further offence if they continue to contravene the requirement in question (subsection (5)).

487. An offence under subsection (5) would be tried in a magistrates' court. If found guilty of the further offence the person may be fined for each day on which the contravention continues (subsection (6)). The standard scale of fines is set out in section 122 of the Sentencing Act 2020.

488. The effect of subsection (3) is that the offences under subsections (1) and (2) do not apply to anything that constitutes an offence under any other provision of this Act and that is subject to the same punishment as an offence under subsection (1) or (2).

Section 108 - False and misleading information

489. The purpose of this section is to require that information that is either held or shared with the enforcement authorities in relation to requirements under this Act, must not be false or misleading and to require that a person responsible for the information is not reckless as to whether it is false or misleading. Accurate information is important in the assessment and management of building safety risks.

490. Subsection (1) provides that it is an offence for a person who has a duty under this Act (or under regulations made under it) to record or keep information, to include in that information any information that the person knows to be false in a material aspect.

491. An offence under subsection (1) may be tried in a magistrates' court or the Crown court. The court may impose a fine. There is no maximum limit on the amount of the fine.

492. Mae is-adran (3) yn darparu bod person yn cyflawni trosedd os yw'r person yn rhoi gwybodaeth anwir neu gamarweiniol yn unrhyw un neu ragor o'r amgylchiadau a grybwyllir yn is-adran (4), a bod y person naill ai'n gwybod bod yr wybodaeth yn anwir neu'n gamarweiniol neu'n ddi-hid ynghylch pa un a yw'n anwir neu'n gamarweiniol.

493. Os ceir person yn euog o drosedd o dan is-adran (3) mewn llys ynadon, caiff y llys osod dirwy neu gyfnod o garchar, neu'r ddau. Nid oes terfyn uchaf ar swm y ddirwy. Uchafswm y cyfnod o garchar yw 12 mis (sef y "terfyn cymwys" a nodir yn adran 224(1A) (b) o'r Cod Dedfrydu, a gynhwysir yn Neddf Dedfrydu 2020 (p. 17)).

494. Os ceir person yn euog o drosedd o dan is-adran (3) yn llys y Goron, caiff y llys osod dirwy neu gyfnod o garchar, neu'r ddau. Nid oes terfyn uchaf ar swm y ddirwy. Uchafswm y cyfnod o garchar yw 2 flynedd.

Mesurau arbennig mewn perthynas ag adeiladau categori 1
Adran 109 – Penodi rheolwr mesurau arbennig ar gyfer adeilad categori 1

495. Mae'r adran hon yn gwneud darpariaeth mewn cysylltiad â phenodi rheolwr mesurau arbennig mewn cysylltiad ag adeilad categori 1, i gyflawni swyddogaethau diogelwch adeiladau un neu ragor o bersonau atebol ar gyfer yr adeilad. Mae'n darparu ar gyfer:
    - yr amgylchiadau y caniateir gwneud gorchymyn oddi tanynt (is-adran (4));
    - unrhyw ofynion y mae rhaid i unigolyn neu gorff eu bodloni i gael ei benodi'n rheolwr mesurau arbennig, i'w pennu mewn rheoliadau a wneir gan Weinidogion Cymru (is-adran (5));
    - y gorchymyn i wneud darpariaeth ynglŷn â'r trefniadau ar gyfer ariannu arfer swyddogaethau gan y rheolwr mesurau arbennig (ac eithrio mewn perthynas ag adeilad sydd ar dir cyfunddaliad), gan gynnwys unrhyw daliadau y mae rhaid i'r person atebol eu gwneud mewn cysylltiad â chostau yr aed iddynt, neu yr eir iddynt, gan y rheolwr (is-adrannau (6), (7) ac (8));
    - y gorchymyn i allu darparu ar gyfer unrhyw fater arall sy'n ymwneud ag arfer swyddogaethau'r rheolwr mesurau arbennig, neu unrhyw fater deilliadol neu ategol arall (is-adran (9)).

496. Dim ond os yw'r tribiwnlys eiddo preswyl wedi ei fodloni ynghylch y materion yn is-adran (4) y caniateir gwneud gorchymyn mesurau arbennig.

497. Mae Atodlen 2 yn gwneud darpariaeth bellach mewn cysylltiad â gorchmynion mesurau arbennig.

498. Caiff y gorchymyn hefyd benodi'r rheolwr mesurau arbennig i gyflawni unrhyw swyddogaeth fel derbynnydd mewn perthynas ag incwm diogelwch adeilad cyfunddaliadol sy'n berthnasol i'r adeilad (is-adran (3)).

Pŵer awdurdod diogelwch adeiladau i roi hysbysiadau cosb benodedig
Adran 110 – Pŵer awdurdod diogelwch adeiladau i roi hysbysiad cosb benodedig

499. Mae is-adran (1) yn darparu pŵer i'r awdurdod diogelwch adeiladau ar gyfer adeilad categori 1 neu 2 i roi hysbysiad cosb benodedig i'r prif berson atebol ar gyfer yr adeilad os yw'r awdurdod yn ystyried bod y person wedi cyflawni trosedd o dan y darpariaethau a grybwyllir yn is-adran (1)(a) neu (1)(b).

492. Subsection (3) provides that a person commits an offence if the person gives false or misleading information in any of the circumstances mentioned in subsection (4), and the person either knows that the information is false or misleading or is reckless as to whether it is false or misleading.

493. If a person is found guilty of an offence under subsection (3) in a magistrates' court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 12 months (which is the "applicable limit" set out in section 224(1A) (b) of the Sentencing Code, contained in the Sentencing Act 2020 (c. 17)).

494. If a person is found guilty of an offence under subsection (3) in the Crown court, the court may impose a fine or a term of imprisonment, or both. There is no maximum limit on the amount of the fine. The maximum term of imprisonment is 2 years.

Special measures in relation to category 1 buildings
Section 109 - Appointment of special measures manager for category 1 building

495. This section makes provision in respect of the appointment of a special measures manager in respect of a category 1 building, to carry out the building safety functions of one or more accountable persons for the building. It provides for:
- the circumstances in which an order may be made (subsection (4));
- any requirements that an individual or body must satisfy to be appointed as a special measures manager, to be specified in regulations made by the Welsh Ministers (subsection (5));
- the order to make provision about the arrangements for funding the exercise of functions by the special measures manager (other than in relation to a building that is on commonhold land), including any payments the accountable person must make in connection with costs incurred, or to be incurred, by the manager (subsections (6), (7) and (8));
- the order to be able to provide for any other matter relating to the exercise of the functions of the special measures manager, or any other incidental or ancillary matter (subsection (9)).

496. A special measures order may be made only if the residential property tribunal is satisfied of the matters in subsection (4).

497. Schedule 2 makes further provision in respect of special measures orders.

498. The order may also appoint the special measures manager to carry out any function as a receiver in relation to commonhold building safety income relating to the building (subsection (3)).

Power of building safety authority to give fixed penalty notices
Section 110 - Power of building safety authority to give fixed penalty notices

499. Subsection (1) provides the building safety authority for a category 1 or 2 building with a power to give a fixed penalty notice to the principal accountable person for the building if the authority considers that the person has committed an offence under the provisions mentioned in subsection (1)(a) or (1)(b).

500. Mae is-adran (2) yn darparu pŵer i'r awdurdod diogelwch adeiladau ar gyfer adeilad categori 1 y mae adran 42 yn gymwys iddo (dyletswydd i wneud cais am dystysgrif adeilad) i roi hysbysiad cosb benodedig i'r prif berson atebol ar gyfer yr adeilad os yw'r awdurdod yn ystyried bod y person wedi cyflawni trosedd o dan y darpariaethau a grybwyllir yn is-adran (2)(a) neu (b).

501. Mae hysbysiad cosb benodedig yn hysbysiad sy'n cynnig cyfle i'r person ryddhau unrhyw atebolrwydd am euogfarn am y drosedd drwy dalu i'r awdurdod diogelwch adeiladau swm a bennir mewn rheoliadau a wneir gan Weinidogion Cymru. Mae is-adran (4) yn gwahardd dwyn achos am y drosedd y mae'r hysbysiad yn ymwneud â hi cyn diwedd y cyfnod o 28 o ddiwrnodau sy'n dechrau â'r diwrnod drannoeth y diwrnod y rhoddir yr hysbysiad i'r person. Os gwneir taliad yn unol â thelerau'r hysbysiad, mae is-adran (6) yn gwahardd dwyn achos am y drosedd.

502. Rhestrir yr wybodaeth y mae rhaid ei chynnwys yn yr hysbysiad yn is-adran (7).

503. Mae is-adran (8) yn darparu pŵer i Weinidogion Cymru wneud rheoliadau ynghylch tynnu hysbysiadau cosb benodedig yn ôl.

Cymhwyso i'r Goron

Adran 111 – Cymhwyso'r Rhan hon i'r Goron

504. Mae'r adran hon yn cyfyngu ar i ba raddau y mae Rhan 3 o'r Ddeddf yn gymwys i'r Goron ac i fangre'r Goron (a ddiffinnir yn adran 136). Yn benodol, mae'n darparu na chaiff awdurdod diogelwch tân nac awdurdod diogelwch adeiladau roi hysbysiad gwybodaeth am hysbysiad cydymffurfio i'r Goron. Ni chaniateir rhoi hysbysiad gwahardd i'r Goron nac i unrhyw berson arall mewn perthynas â mangreoedd y Goron, ac nid yw'n rhwymo'r Goron.

505. Mae hefyd yn darparu nad yw pwerau mynediad y gellir eu harfer gan swyddogion awdurdodedig mewn perthynas ag adeiladau rheoleiddiedig a thai amlfeddiannaeth perthnasol yn gymwys mewn perthynas â mangreoedd y Goron. Yn ogystal, ni chaiff gorchymyn mesurau arbennig (gweler adran 109) benodi rheolwr mesurau arbennig i gyflawni swyddogaethau'r Goron fel person atebol.

RHAN 4 – CYWEIRIO DIFFYGION PENODOL

Adran 112 – Ystyr "adeilad perthnasol"

506. Mae'r adran hon yn diffinio "adeilad perthnasol" at ddibenion Rhan 4. Ystyr "adeilad perthnasol" yw adeilad categori 1 neu gategori 2 fel y'i diffinnir yn adran 6; ond nid yw'n cynnwys ardaloedd atodol (fel y'i diffinnir yn adran 7) neu unrhyw adeilad sy'n dod o fewn is-adran (1)(b).

507. Mae is-adran (2) yn darparu pŵer gwneud rheoliadau i Weinidogion Cymru yn caniatáu iddynt bennu nad yw adeilad categori 1 neu adeilad categori 2 yn adeilad perthnasol os yw lesddeiliad yn berchen ar yr ystad rydd-ddaliadol yn yr adeilad.

Adran 113 – Ystyr "diffyg perthnasol"

508. Mae is-adran (1) o'r adran hon yn diffinio ystyr "diffyg perthnasol" at ddibenion adrannau 114 – 116, ac ystyr "cam perthnasol" at ddibenion adrannau 114 a 116.

500. Subsection (2) provides the building safety authority for a category 1 building to which section 42 applies (duty to apply for building certificate) with a power to give a fixed penalty notice to the principal accountable person for the building if the authority considers that the person has committed an offence under the provisions mentioned in subsection (2)(a) or (b).

501. A fixed penalty notice is a notice offering the person the opportunity to discharge any liability to conviction for the offence by paying the building safety authority an amount specified in regulations made by the Welsh Ministers. Subsection (4) prohibits proceedings for the offence to which the notice relates from being brought before the end of the period of 28 days beginning with the day after the day on which the person is given the notice. If payment is made in accordance with the terms of the notice, subsection (6) prohibits proceedings for the offence from being brought.

502. The information that must be included in the notice is listed in subsection (7).

503. Subsection (8) provides the Welsh Ministers with a power to make regulations about the withdrawal of fixed penalty notices.

Crown Application

Section 111 - Application of this Part to the Crown

504. This section limits the extent to which Part 3 of the Act applies to the Crown and to Crown premises (defined in section 136). In particular, it provides that neither a fire safety authority nor a building safety authority may give an information notice or a compliance notice to the Crown. A prohibition notice may not be given to the Crown or any other person in relation to Crown premises and does not bind the Crown.

505. It also provides that powers of entry which can be exercised by authorised officers in relation to regulated buildings and relevant HMOs do not apply in relation to Crown premises. Additionally, a special measures order (see section 109) may not appoint a special measure manager to carry out functions of the Crown as an accountable person.

PART 4 - REMEDIATION OF CERTAIN DEFECTS

Section 112 - Meaning of "relevant building"

506. This section defines a "relevant building" for the purposes of Part 4. A "relevant building" means a category 1 or category 2 building as defined in section 6; but does not include ancillary areas (as defined in section 7) or any building that falls into subsection (1)(b).

507. Subsection (2) provides the Welsh Ministers with a regulation making power allowing them to specify that a category 1 building or a category 2 building is not a relevant building if the freehold estate in the building is leaseholder owned.

Section 113 - Meaning of "relevant defect"

508. Subsection (1) of this section defines the meaning of "relevant defect" for the purposes of sections 114 – 116 and "relevant step" for the purposes of sections 114 and 116.

509. "Diffyg perthnasol" yw diffyg sy'n codi o ganlyniad i unrhyw beth sydd wedi ei wneud neu heb ei wneud wrth i waith gael ei wneud i adeiladu neu drosi adeilad neu waith a gomisiynwyd gan landlord neu gwmni rheoli, yn y cyfnod sy'n dechrau â 28 Mehefin 1992 ac sy'n dod i ben â 20 Chwefror 2026 ("y cyfnod perthnasol") (neu ar ôl y cyfnod perthnasol os mai gwaith ydyw i unioni diffyg perthnasol) ac sy'n creu, neu'n cynyddu'n sylweddol, risg diogelwch adeilad mewn adeilad perthnasol. "Cam perthnasol" yw cam â'i bwrpas yw atal neu leihau niwed rhag deillio o ddiffyg perthnasol.

510. Mae is-adran (2) yn diffinio at ddibenion yr adran hon, ystyr "risg diogelwch adeilad", "y cyfnod perthnasol" a "gwaith perthnasol", ymysg pethau eraill. Mae "risg diogelwch adeilad" yn risg i ddiogelwch pobl yn yr adeilad neu o'i amgylch sy'n deillio o (a) lledaeniad tân, neu (b) yr adeilad, neu unrhyw rhan ohono, yn dymchwel.

Adran 114 – Gorchmynion cyweirio

511. Mae is-adran (1) yn ei gwneud yn ofynnol i Weinidogion Cymru ddarparu mewn rheoliadau y caiff tribiwnlys eiddo wneud "gorchymyn cyweirio" ar gais person a chanddo fuddiant a gwneud darpariaeth gysylltiedig bellach.

512. Mae is-adran (2) yn nodi mai gorchymyn cyweirio yw gorchymyn sy'n ei gwneud yn ofynnol i landlord perthnasol neu gwmni rheoli perthnasol, o fewn cyfnod penodedig, (a) unioni diffygion perthnasol penodedig mewn adeilad perthnasol penodedig a/neu (b) cymryd camau perthnasol penodedig mewn perthynas â diffyg perthnasol penodedig mewn adeilad perthnasol penodedig.

513. O dan is-adran (3), mae "person a chanddo fuddiant" yn cynnwys awdurdod diogelwch adeiladau, awdurdod diogelwch tân a pherson a chanddo fuddiant cyfreithiol neu ecwitïol yn yr adeilad neu unrhyw rhan ohono (er enghraifft, lesddeiliad). Gellir pennu personau ychwanegol yn y rheoliadau fel personau a chanddynt fuddiant.

514. Mae is-adran (4) yn ei gwneud yn ofynnol i Weinidogion Cymru osod drafft o'r rheoliadau o dan is-adran (1) gerbron Senedd Cymru o fewn 9 mis o'r Ddeddf hon yn cael y Cydsyniad Brenhinol.

Adran 115 – Gorchmynion cyfraniadau cyweirio

515. Mae is-adran (1) yn ei gwneud yn ofynnol i Weinidogion Cymru ddarparu mewn rheoliadau y caiff tribiwnlys eiddo preswyl wneud "gorchymyn cyfraniadau cyweirio" ar gais person a chanddo fuddiant a gwneud darpariaeth gysylltiedig bellach.

516. Mae is-adran (2) yn nodi mai gorchymyn cyfraniadau cyweirio yw gorchymyn sy'n ei gwneud yn ofynnol i gorff corfforedig perthnasol neu bartneriaeth berthnasol wneud taliadau i berson penodedig at y diben o dalu costau cyweirio.

517. Mae is-adran (5) yn diffinio "corff corfforedig perthnasol neu bartneriaeth berthnasol" fel corff corfforedig neu bartneriaeth sy'n landlord o dan les o'r adeilad perthnasol neu unrhyw ran ohono, yn berson a oedd yn landlord o'r fath ar ddechrau 20 Chwefror 2026, yn ddatblygwr mewn perthynas â'r adeilad perthnasol, neu'n berson sy'n gysylltiedig ag unrhyw un neu ragor o'r personau hyn.

509. A "relevant defect" is a defect that arises as a result of anything done or not done during the course of work to construct or convert a building or works commissioned by a landlord or management company, in the period beginning with 28 June 1992 and ending with 20 February 2026 ("the relevant period") (or after the relevant period if the works are to remedy a relevant defect) and that creates, or significantly increase, a building safety risk in a relevant building. A "relevant step" is a step that has as its purpose preventing or reducing harm arising from a relevant defect.

510. Subsection (2) defines, for the purposes of this section the meaning of, amongst other things, "building safety risk", "the relevant period" and "relevant works". A "building safety risk" is a risk to the safety of people in or about the building arising from (a) the spread of fire, or (b) the collapse of the building or any part of it.

Section 114 - Remediation Orders

511. Subsection (1) requires the Welsh Ministers to provide in regulations that a residential property tribunal may make a "remediation order" on the application of an interested person and to make further connected provision.

512. Subsection (2) sets out that a remediation order is an order requiring a relevant landlord or management company, within a specified timescale to (a) remedy specified relevant defects in a specified relevant building and/or (b) take specified relevant steps in relation to a specified relevant defect in a specified relevant building.

513. Under subsection (3) an "interested person" includes a building safety authority, a fire safety authority and a person with a legal or equitable interest in the relevant building or any part of it (for example, a leaseholder). Additional people can be specified in regulations as an interested person.

514. Subsection (4) requires the Welsh Ministers to lay a draft of the regulations under subsection (1) before Senedd Cymru within nine months of this Act receiving Royal Assent.

Section 115 - Remediation Contribution orders

515. Subsection (1) requires the Welsh Ministers to provide in regulations that a residential property tribunal may make a "remediation contribution order" on the application of an interested person and to make further connected provision.

516. Subsection (2) sets out that a remediation contribution order is an order requiring a relevant body corporate or partnership to make payments to a specified person for the purpose of meeting remediation costs.

517. Subsection (5) defines "relevant body corporate or partnership" as a body corporate or partnership that is a landlord under a lease of the relevant building or any part of it, a person who was such a landlord at the beginning of 20 February 2026, a developer in relation to the relevant building, or a person associated with any of these persons.

518. Mae is-adrannau (3) a (6) yn darparu ar gyfer rheoliadau i wneud darpariaeth arall am gynnwys gorchmynion cyfraniadau cyweirio a materion eraill sy'n gysylltiedig â gorchmynion o'r fath.

519. Mae is-adran (7) yn ei gwneud yn ofynnol i Weinidogion Cymru osod drafft o'r rheoliadau o dan is-adran (1) gerbron Senedd Cymru cyn diwedd y cyfnod o 9 mis o'r Ddeddf hon yn cael y Cydsyniad Brenhinol.

Adran 116 – Costau cyweirio o dan lesoedd cymhwysol etc.

520. Mae is-adran (1) yn galluogi Gweinidogion Cymru i wneud rheoliadau sydd, ymysg pethau eraill, yn gwahardd neu'n cyfyngu ar y tâl gwasanaeth sy'n daladwy mewn cysylltiad â mesur perthnasol o dan unrhyw les mewn amgylchiadau penodol neu o dan les gymwys (gweler adran 117) mewn amgylchiadau penodedig eraill. Mae is-adran (4) yn diffinio "mesur perthnasol" fel mesur a gymerir i unioni diffyg perthnasol, neu gam perthnasol a gymerir mewn perthynas â diffyg perthnasol.

521. Mae is-adrannau (2) a (3) yn darparu manylion ychwanegol ynghylch yr hyn y caiff rheoliadau o dan yr adran hon eu cynnwys.

Adran 117 – Ystyr "les gymhwysol"

522. Mae is-adran (1) yn darparu bod les yn "les gymhwysol" os cafodd ei roi cyn dechrau 20 Chwefror 2026, os yw'n les hir o annedd unigol mewn adeilad perthnasol, os yw'r tenant o dan y les yn atebol i dalu tâl gwasanaeth ac, ar 20 Chwefror 2026:

i. yr annedd oedd unig gartref neu prif gartref tenant perthnasol,

ii. nid oedd yn berchen ar unrhyw annedd arall yn y Deyrnas Unedig, neu

iii. yr oedd yn berchen ar ddim mwy na dwy annedd yn y Deyrnas Unedig heblaw am ei fuddiant o dan y les.

523. Caiff rheoliadau o dan yr adran hon wneud darpariaeth arall mewn perthynas ag ystyr "les gymhwysol", gan gynnwys darpariaeth ar gyfer lesoedd penodol i'w trin fel les gymhwysol.

Adran 118 – Adroddiadau ar gynnydd o dan raglen diogelwch adeiladau Cymru

524. Mae'r adran hon yn gosod dyletswydd ar Weinidogion Cymru i adrodd ar gynnydd hunangyweirio gan ddatblygwr o dan gytundeb â Gweinidogion Cymru ac ar waith a ariennir gan Gronfa Diogelwch Adeiladau Cymru. Rhaid cyhoeddi adroddiad a'i osod gerbron Senedd Cymru bob blwyddyn hyd nes y bydd gwaith o'r fath wedi ei gwblhau.

RHAN 5 – ATODOL A CHYFFREDINOL

Hyrwyddo cyfranogiad mewn perthynas ag arfer swyddogaethau Gweinidogion Cymru etc.

Adran 119 – Strategaeth Gweinidogion Cymru ar gyfer hyrwyddo cyfranogiad mewn perthynas ag arfer eu swyddogaethau etc.

525. Mae is-adran (1) yn ei gwneud yn ofynnol i Weinidogion Cymru lunio strategaeth ar gyfer hyrwyddo cyfranogiad personau perthnasol mewn perthynas ag arfer, gan Weinidogion Cymru, eu swyddogaethau o dan y Ddeddf neu reoliadau a wneir oddi tani.

518. Subsections (3) and (6) provide for regulations to make other provision about the content of remediation contribution orders and other matters connected with such orders.

519. Subsection (7) requires the Welsh Ministers to lay a draft of the regulations under subsection (1) before Senedd Cymru within nine months of this Act receiving Royal Assent.

Section 116 - Remediation costs under qualifying leases etc.

520. Subsection (1) enables the Welsh Ministers to make regulations that, amongst other things, prohibit or restrict the service charge payable in respect of a relevant measure under any lease in certain circumstances or under a qualifying lease (see section 117) in other specified circumstances. Subsection (4) defines "relevant measure" as a measure taken to remedy a relevant defect, or a relevant step taken in relation to a relevant defect.

521. Subsections (2) and (3) provide additional detail about what regulations under this section can include.

Section 117 - Meaning of "qualifying lease"

522. Subsection (1) provides that a lease is a "qualifying lease" if it was granted before the beginning of 20 February 2026, if it is a long lease of a single dwelling in a relevant building, if the tenant under the lease is liable to pay a service charge, and on 20 February 2026:

i. the dwelling was a relevant tenant's only or principal home,
ii. they did not own any other dwelling in the United Kingdom, or
iii. they owned no more than two dwellings in the United Kingdom apart from their interest under the lease.

523. Regulations under this section may make other provision in relation to the meaning of "qualifying lease", including provision for certain leases to be treated as a qualifying lease.

Section 118 - Reports on progress under the Welsh building safety programme

524. This section places a duty on the Welsh Ministers to report on the progress of developer self-remediation under agreement with the Welsh Ministers and on work funded by the Welsh Building Safety Fund. A report must be published and laid before Senedd Cymru each year until such works have been completed.

PART 5 - SUPPLEMENTARY AND GENERAL

Promotion of participation in relation to the exercise of Welsh Ministers' functions etc.

Section 119 - Welsh Ministers' strategy for promoting participation in relation to the exercise of their functions etc.

525. Subsection (1) requires the Welsh Ministers to prepare a strategy for promoting the participation of relevant persons in relation to the exercise by the Welsh Ministers of their functions under the Act or regulations made under it.

526. Mae'r diffiniad o "personau perthnasol" yn is-adran (7) yn cynnwys preswylwyr adeiladau rheoleiddiedig sy'n 18 oed neu'n hŷn, perchnogion unedau preswyl mewn adeiladau rheoleiddiedig a meddianwyr tai amlfeddiannaeth perthnasol sy'n 18 oed neu'n hŷn.

527. Rhaid i Weinidogion Cymru gyhoeddi'r strategaeth a'i chadw o dan adolygiad.

528. Mae is-adran (5) yn darparu y caiff Gweinidogion Cymru ddiwygio'r strategaeth os ydynt yn ystyried ei bod yn briodol gwneud hynny. Mae is-adran (6) yn darparu bod rhaid i Weinidogion Cymru, wrth benderfynu pa un ai i ddiwygio'r strategaeth, roi sylw i unrhyw sylwadau a ddaeth i law ynghylch cynnwys y strategaeth.

Canllawiau a chydweithredu

Adran 120 – Dyroddi neu gymeradwyo canllawiau gan Weinidogion Cymru

529. Mae'r adran hon yn darparu bod rhaid i Weinidogion Cymru ddyroddi neu gymeradwyo'r fath ganllawiau y maent yn ystyried eu bod yn briodol i gynorthwyo unrhyw bersonau i gydymffurfio â'u dyletswyddau o dan y Ddeddf neu reoliadau a wneir oddi tani (is-adran (1)).

530. Mae is-adran (2) yn gosod dyletswydd ar Weinidogion Cymru i gyhoeddi neu gymeradwyo canllawiau i gynorthwyo prif bersonau atebol (mewn perthynas ag adeiladau rheoleiddiedig) a landlordiaid (mewn perthynas â HMOs perthnasol), i gydymffurfio â'r dyletswyddau a osodir arnynt i asesu risgiau diogelwch tân.

531. Rhaid cyhoeddi canllawiau a ddyroddir neu a gymeradwyir gan Weinidogion Cymru o dan yr adran hon (is-adran (4)). Mae is-adran (5) yn gwneud darpariaeth ynglŷn ag achos pan honnir fod person wedi methu â chydymffurfio â dyletswydd a osodir gan y Ddeddf neu gan reoliadau a wneir oddi tani. Mewn achos o'r fath, caniateir dibynnu ar brawf bod y person wedi cydymffurfio â chanllawiau perthnasol a gyhoeddir o dan yr adran hon fel rhywbeth sy'n tueddu i sefydlu na fu methiant o'r fath. Gellir dibynnu ar brawf o fethiant i gydymffurfio â chanllawiau perthnasol a gyhoeddwyd o dan yr adran hon fel rhywbeth sy'n tueddu i sefydlu eu bod wedi methu â chydymffurfio â dyletswydd.

532. Rhaid i Weinidogion Cymru ymgynghori â phob awdurdod diogelwch adeiladau, pob awdurdod diogelwch tân ac unrhyw bersonau eraill y maent yn eu hystyried yn briodol cyn iddynt ddyroddi neu gymeradwyo canllawiau o dan yr adran hon).

Adran 121 – Cydweithredu a gwybodaeth: dyletswyddau personau cyfrifol o dan y Gorchymyn Diogelwch Tân

533. Mae'r adran hon yn gwneud diwygiadau i Orchymyn Diwygio Rheoleiddio (Diogelwch Tân) 2005 (y "GDT").

534. Mae erthygl 22C yn ei gwneud yn ofynnol i "personau cyfrifol" am fangre o dan y GDT, gydweithredu ag unrhyw bersonau atebol a deiliaid dyletswydd o dan y Ddeddf. Mae'r ddyletswydd hon yn gymwys pan fônt yn gyfrifol am rannau o'r un adeilad. Er enghraifft, pan fo adeilad yn cynnwys dau fflat sy'n rhannu mynedfa a siop o dan y fflatiau, bydd o leiaf un person atebol ar gyfer y rhannau preswyl (o dan y Ddeddf) ac o leiaf un person cyfrifol ar gyfer y siop (o dan y GDT).

526. "Relevant persons" are defined in subsection (7) as including the residents of regulated buildings who are aged 18 or over, owners of residential units in regulated buildings and occupiers of relevant HMOs who are aged 18 or over.

527. The Welsh Ministers must publish and keep the strategy under review.

528. Subsection (5) provides that the Welsh Minsters may revise the strategy if they consider it appropriate to do so. Subsection (6) provides that in deciding whether to revise the strategy, the Welsh Ministers must have regard to any representations they receive about its content.

Guidance and co-operation

Section 120 - Issue or approval of guidance by the Welsh Ministers

529. This section requires Welsh Ministers to issue or approve guidance to assist any persons in complying with their duties under the Act or regulations made under it (subsection (1)).

530. Subsection (2) places a duty on the Welsh Ministers, to issue or approve guidance to assist principal accountable persons (in respect of regulated buildings) and landlords (in respect of relevant HMOs), in complying with the duties imposed upon them to assess fire safety risks.

531. Guidance issued or approved by the Welsh Ministers under this section must be published (subsection (4)). Subsection (5) makes provision about proceedings in which it is alleged that a person has failed to comply with a duty imposed by the Act or by regulations made under it. In such proceedings proof of compliance with relevant guidance published under this section may be relied on as tending to establish that there has been no such failure. Proof of a failure to comply with relevant guidance published under this section may be relied on as tending to establish that a person has failed to comply with a duty.

532. The Welsh Ministers must consult each county council and county borough council in Wales, each fire safety authority and any other persons they consider appropriate before they issue or approve guidance under this section.

Section 121 - Co-operation and information: duties of responsible persons under Fire Safety Order

533. This section makes amendments to the Regulatory Reform (Fire Safety) Order 2005 (the "FSO").

534. Article 22C requires "responsible persons" for premises under the FSO, to co-operate with any accountable persons and duty holders under the Act. This duty applies where they are responsible for parts of the same building. For example, where a building is comprised of two flats that share an entrance and a shop below the flats, there will be at least one accountable person for the residential parts (under the Act) and at least one responsible person for the shop (under the FSO).

535. Mae'r ddarpariaeth hon yn ei gwneud yn ofynnol i bersonau cyfrifol gymryd y camau hynny sy'n rhesymol ymarferol i sefydlu pa un a oes personau atebol neu ddeiliaid dyletswydd mewn cysylltiad â'r adeilad y mae mangre y person cyfrifol yn rhan ohono. Os oes, rhaid i'r person cyfrifol gydweithredu â'r personau hynny at ddiben y personau yn cyflawni eu dyletswyddau o dan y Ddeddf.

536. Mae'r ddarpariaeth hon yn ei gwneud yn ofynnol i bersonau cyfrifol, os ydynt yn dod yn ymwybodol o unrhyw berson sy'n cael ei drin fel person atebol o dan adran 36 o'r Ddeddf, i gydweithredu â'r person hwnnw at y diben o gyflawni eu dyletswyddau o dan y Ddeddf.

537. Mae dyletswyddau cilyddol yn adrannau 68(11) ac 91(11) o'r Ddeddf, a osodir ar bersonau atebol (gan gynnwys y sawl sy'n cael eu trin fel personau atebol o dan adran 36) a deiliaid dyletswydd (yn y drefn honno), i gydweithredu â phersonau cyfrifol.

538. Mae'r adran hon hefyd yn mewnosod erthyglau 22D a 22E i'r GDT. Mae'r erthyglau hyn yn gwneud darpariaeth ynghylch rhoi gwybodaeth gan bersonau cyfrifol i bersonau atebol a deiliaid dyletswydd (yn y drefn honno).

539. Nid yw darpariaethau gorfodi o dan y GDT yn gymwys i achosion o dorri erthyglau 22C i 22E, oherwydd caiff y rhain eu gorfodi o dan adran 94 o'r Ddeddf (is-adrannau (5) – (8)).

540. Nid yw'r diwygiad i bennawd erthygl 22B yn sylweddol ond mae'n gwneud yn glir o'r pennawd nad yw erthygl 22B yn gymwys o ran Cymru. Mae is-adran (4) yn gwneud darpariaeth sy'n ganlyniadol i'r hyn yn is-adran (2).

Awdurdodau diogelwch adeiladau

Adran 122 – Awdurdodau diogelwch adeiladau

541. Mae is-adran (1) yn diffinio "awdurdod diogelwch adeiladau" at ddibenion y Ddeddf hon i olygu cyngor sir neu gyngor bwrdeistref sirol ar gyfer ardal yng Nghymru a ddynodwyd felly gan Weinidogion Cymru mewn rheoliadau.

542. O dan is-adran (2) rhaid i'r rheoliadau hynny ddynodi un cyngor sir neu gyngor bwrdeistref sirol yw mhob ardal awdurdod tân ac achub fel yr awdurdod diogelwch adeiladau ar gyfer yr ardal honno.

543. Mae is-adran (3) yn rhestru'r sawl y mae rhaid i Weinidogion Cymru ymgynghori â hwy cyn gwneud y rheoliadau a bennir yn is-adran (1), tra bod is-adran (4) yn darparu i'r rheoliadau hynny wneud darpariaethau pellach mewn cysylltiad ag arfer swyddogaethau gan awdurdod diogelwch adeiladau.

544. Mae is-adran (6) yn darparu ar gyfer anwybyddu ardaloedd atodol wrth benderfynu pa un a yw adeilad rheoleiddiedig yn gyfan gwbl neu'n bennaf yn ardal awdurdod diogelwch adeiladau. Er enghraifft, os yw adeilad yn ardal awdurdod diogelwch adeiladau ond bod ganddo ardd fawr sy'n ymestyn dros y ffin i ardal awdurdod diogelwch adeiladau gwahanol, ystyrir ei fod wedi ei leoli yn y cyntaf o'r rhain. Byddai'r ardd o amgylch adeilad rheoleiddiedig yn cael ei hanwybyddu at ddibenion penderfynu ym mha ardal y mae adeilad "yn gyfan gwbl neu'n bennaf" ynddi.

535. This provision requires responsible persons to take such steps as are reasonably practicable to establish whether there are accountable persons or duty holders in respect of the building of which the responsible person's premises form part. If there are, the responsible person must co-operate with those persons for the purpose of the persons carrying out their duties under the Act.

536. This provision requires responsible persons, if they become aware of any person treated as an accountable person under section 36 of the Act, to co-operate with that person for the purpose of them carrying out their duties under the Act.

537. There are reciprocal duties in sections 68(11) and 91(11) of the Act, placed on accountable persons (including those treated as accountable persons under section 36) and duty holders (respectively), to co-operate with responsible persons.

538. This section also inserts articles 22D and 22E into the FSO, these articles make provision about the giving of information by responsible persons to accountable persons and duty holders (respectively).

539. Enforcement provisions under the FSO do not apply to breaches of articles 22C to 22E, as these will be enforced under section 94 of the Act (subsections (5) - (8)).

540. The amendment to the heading of article 22B is not substantive but makes clear from the heading that article 22B does not apply in relation to Wales. Subsection (4) makes provision consequential to that in subsection (2).

Building safety authorities

Section 122 - Building safety authorities

541. Subsection (1) defines a "building safety authority" for the purposes of this Act to mean a county council or county borough council for an area in Wales designated as such by the Welsh Ministers in regulations.

542. Under subsection (2) those regulations must designate one county council or county borough council in each fire and rescue authority area as the building safety authority for that area.

543. Subsection (3) list those with whom Welsh Ministers must consult prior to making the regulations specified in subsection (1), while subsection (4) provides for those regulations to make further provisions in connection with the exercise of functions by a building safety authority.

544. Subsection (6) provides for ancillary areas to be ignored when determining whether a regulated building is wholly or mainly in a building safety authority's area. For example, if a building is in the area of a building safety authority but has a large garden extending across the boundary into a different building safety authority's area, it would be taken as being in the former. The garden surrounding a regulated building would be ignored for the purposes of determining in whose area a building is "wholly or mainly situated".

545. Mae is-adran (7) yn darparu nad yw swyddogaethau cyngor fel awdurdod diogelwch adeiladau i fod yn gyfrifoldeb i weithrediaeth y cyngor o dan drefniadau gweithrediaeth. Bydd y ddarpariaeth hon, er enghraifft, yn galluogi cyngor i ddibynnu ar adran 101 o Ddeddf Llywodraeth Leol 1972 wrth drefnu i ryddhau eu swyddogaethau diogelwch adeiladau.

Adran 123 – Dirprwyo swyddogaethau pan fo awdurdod diogelwch adeiladau yn berson atebol ar gyfer adeilad categori 1

546. Mae'r adran hon yn gwneud darpariaeth mewn cysylltiad â sefyllfaoedd pan fo cyngor sir neu gyngor bwrdeistref sirol yn awdurdod diogelwch adeiladau ac yn berson atebol ar gyfer adeilad categori 1.

Adran 124 – Pŵer i gyfarwyddo awdurdodau diogelwch adeiladau i drefnu i ddirprwyo swyddogaethau

547. Mae'r adran hon yn darparu y caiff Gweinidogion Cymru gyfarwyddo dau awdurdod diogelwch adeiladau neu ragor i drefnu i un o'r awdurdodau hynny arfer unrhyw un neu ragor o swyddogaethau awdurdod diogelwch adeiladau yr awdurdod arall neu yr awdurdodau eraill. Mae'n cynnwys darpariaethau ychwanegol sy'n ymwneud â chyfarwyddyd o'r fath.

Adran 125 – Ffioedd ar gyfer arfer swyddogaethau gan awdurdodau diogelwch adeiladau

548. Mae'r adran hon yn galluogi Gweinidogion Cymru i wneud darpariaeth ar gyfer codi ffioedd gan awdurdodau diogelwch adeiladau, ac mewn cysylltiad â hynny, ar gyfer cyflawni eu swyddogaethau o dan y Ddeddf (neu o dan reoliadau a wneir o dan y Ddeddf), ac ar gyfer gwneud pethau sy'n ddeilliadol etc. i gyflawni'r swyddogaethau hynny. Enghraifft o swyddogaeth y caiff rheoliadau wneud darpariaeth ar gyfer codi ffi yw cofrestru (gweler adran 20).

Awdurdodau diogelwch tân

Adran 126 – Awdurdodau diogelwch tân

549. Mae'r adran hon yn diffinio "awdurdod diogelwch tân", sef yn gyffredinol, yr awdurdod tân ac achub y mae'r adeilad rheoleiddiedig neu'r tŷ amlfeddiannaeth perthnasol wedi ei leoli'n gyfan gwbl neu'n bennaf yn ei ardal.

550. Mae tri awdurdod tân ac achub yng Nghymru, gydag ardaloedd sy'n cynnwys cyfuniadau o ardaloedd awdurdodau lleol.

551. Fodd bynnag, os yw adeilad rheoleiddiedig neu dŷ amlfeddiannaeth perthnasol yn cynnwys mangreoedd y Goron yn unig, mae adran 126(2)(b) yn darparu bod yr awdurdod diogelwch tân yn "arolygydd tân" h.y. arolygydd neu arolygydd cynorthwyol a benodir o dan adran 28 o Ddeddf Gwasanaethau Tân ac Achub 2004. Diffinnir "mangreoedd y Goron" yn adran 136 fel mangre y mae'r Goron yn berchen arnynt, neu a feddiennir at unrhyw ddiben gan y Goron; yn ymarferol mae hyn yn debygol o olygu mangreoedd y mae Llywodraeth Cymru neu Llywodraeth y DU yn berchen arnynt, neu a feddiennir ganddynt. Mae hyn yn adlewyrchu'n fras y sefyllfa bresennol o dan y Gorchymyn Diwygio Rheoleiddio (Diogelwch Tân) 2005 ("y GDT").

545. Subsection (7) provides that the functions of a council as a building safety authority are not to be the responsibility of an executive of the council under executive arrangements. This provision will, for example, enable a council to rely on section 101 of the Local Government Act 1972 when arranging for the discharge of their building safety functions.

Section 123 - Delegation of functions where building safety authority is accountable person for category 1 building

546. This section makes provision in respect of scenarios where a county council or country borough council is both the building safety authority and an accountable person for a category 1 building.

Section 124 - Power to direct building safety authorities to arrange for delegation of functions

547. This section provides that the Welsh Ministers may direct two or more building safety authorities to arrange for one of those authorities to exercise any of the building safety authority functions of the other authority or authorities. It includes additional provisions related to such a direction.

Section 125 Fees for exercise of functions by building safety authorities

548. This section enables the Welsh Ministers to make provision for and in connection with the charging of fees by building safety authorities for carrying out their functions under the Act (or under regulations made under the Act), and for doing things that are incidental etc. to the carrying out of those functions. An example of a function for which regulations may make provision for a fee to be charged is registration (see section 20).

Fire safety authorities

Section 126 - Fire safety authorities

549. This section defines "fire safety authority", which will generally be the fire and rescue authority in whose area the regulated building or relevant HMO is wholly or mainly situated.

550. There are three fire and rescue authorities in Wales, with areas comprising combinations of local authority areas.

551. However, if a regulated building or relevant HMO consists entirely of Crown premises, section 126(2)(b) provides that the fire safety authority is a "fire inspector" i.e. an inspector or assistant inspector appointed under section 28 of the Fire and Rescue Services Act 2004. "Crown premises" is defined in section 136 as premises owned, or occupied for any purpose, by the Crown; in practice this is likely to mean premises owned or occupied by the Welsh or UK Governments. This broadly reflects the current position under the Regulatory Reform (Fire Safety) Order 2005 ("the FSO").

552. Nid yw bron y cyfan o fangreoedd y Goron yng Nghymru yng nghwmpas y Ddeddf, naill ai oherwydd nad ydynt yn cynnwys dwy neu ragor o unedau preswyl neu oherwydd eu bod wedi eu heithrio'n benodol gan Atodlen 1 (e.e. carchardai), ac yn parhau i fod yn gyfan gwbl yng nghwmpas y GDT.

553. Mae adran 126(3) a (4) yn darparu, ar gyfer adeiladau rheoleiddiedig a thai amlfeddiannaeth perthnasol (yn y drefn honno), bod ardaloedd atodol fel gerddi (fel y'u diffinnir yn adrannau 7 a 78) yn cael eu diystyru wrth benderfynu ym mha ardal awdurdod tân ac achub y mae'r adeilad yn dod o'i mewn. Er enghraifft, os yw adeilad yn ardal Awdurdod Tân ac Achub De Cymru ond bod ganddo ardd fawr sy'n ymestyn dros y ffin i Awdurdod Tân ac Achub Canolbarth a Gorllewin Cymru, byddai'n cael ei ystyried yn rhan o'r awdurdod cyntaf.

Arfer swyddogaethau gan awdurdodau diogelwch adeiladau ac awdurdodau diogelwch tân

Adran 127 – Dyroddi canllawiau gan Weinidogion Cymru ynghylch arfer swyddogaethau

554. Mae'r adran hon yn gosod dyletswydd ar Weinidogion Cymru i ddyroddi canllawiau ynghylch arfer swyddogaethau o dan y Ddeddf neu reoliadau a wneir oddi tani gan awdurdod diogelwch adeiladau ac awdurdod diogelwch tân.

555. Rhaid i awdurdodau diogelwch adeiladau ac awdurdodau diogelwch tân roi sylw i ganllawiau a ddyroddir gan Weinidogion Cymru o dan yr adran hon.

556. Cyn dyroddi canllawiau o dan yr adran hon, mae is-adran (3) yn ei gwneud yn ofynnol i Weinidogion Cymru ymgynghori â phob awdurdod diogelwch adeiladau, pob awdurdod diogelwch tân ac unrhyw bersonau eraill y maent yn ystyried eu bod yn briodol.

Adran 128 – Cydweithredu rhwng awdurdodau diogelwch adeiladau ac awdurdodau diogelwch tân

557. Pan fo gan awdurdod diogelwch adeiladau ac awdurdod diogelwch tân swyddogaethau o dan y Ddeddf, neu reoliadau a wneir oddi tani, mewn perthynas â'r un adeilad rheoleiddiedig neu adeiladau rheoleiddiedig, mae is-adran (1) yn darparu bod rhaid iddynt gydweithredu, i'r graddau y bo'n bosibl, wrth arfer y swyddogaethau hynny.

558. Mae is-adran (3) yn darparu y caiff canllawiau a ddyroddir o dan adran 127 gynnwys canllawiau ynghylch sut y mae'r awdurdodau i gydymffurfio â'u dyletswydd i gydweithredu o dan yr adran hon.

Adran 129 – Rhannu gwybodaeth

559. Mae'r adran hon yn darparu y caiff cyngor sir neu gyngor bwrdeistref sirol yng Nghymru neu awdurdod diogelwch tân ddatgelu gwybodaeth a ddelir ganddo i awdurdod diogelwch adeiladau neu awdurdod diogelwch tân at ddibenion swyddogaeth o dan y Ddeddf hon, neu reoliadau a wneir odi tani, y naill awdurdod neu'r llall.

552. Almost all Crown premises in Wales are not in scope of the Act, either because they do not contain two or more residential units or because they are expressly excluded by Schedule 1 (e.g. prisons) and remain entirely in scope of the FSO.

553. Section 126(3) and (4) provide, for regulated buildings and relevant HMOs (respectively), that ancillary areas such as gardens (as defined in sections 7 and 78) are disregarded in determining which fire and rescue authority area the building falls within. For example, if a building is in the area of South Wales Fire and Rescue Authority but has a large garden extending across the boundary into Mid and West Wales Fire and Rescue Authority, it would be taken as being in the former.

Exercise of functions by building safety authorities and fire safety authorities
Section 127 - Issue of guidance by the Welsh Ministers about the exercise of functions

554. This section places a duty on the Welsh Ministers to issue guidance about the exercise of functions under the Act or regulations made under it by a building safety authority and a fire safety authority.

555. Building safety authorities and fire safety authorities must have regard to guidance issued by the Welsh Ministers under this section.

556. Before issuing guidance under this section, subsection (3) requires the Welsh Ministers to consult with each building safety authority, each fire safety authority and such other persons they consider appropriate.

Section 128 - Co-operation between building safety authorities and fire safety authorities

557. Where a building safety authority and a fire safety authority have functions under the Act, or regulations made under it, in relation to the same regulated building or regulated buildings, subsection (1) provides that they must cooperate, so far as possible, in the exercise of those functions.

558. Subsection (3) provides that guidance issued under section 127 may include guidance about how the authorities are to comply with their duty to cooperate under this section.

Section 129 - Sharing of information

559. This section provides that a county council or county borough council in Wales or a fire safety authority may disclose information it holds, to a building safety authority or fire safety authority for the purposes of a function under this Act, or regulations made under it, of either authority.

560. Ni fydd datgelu gwybodaeth o dan yr adran hon yn torri unrhyw rwymedigaeth gyfrinachedd sy'n ddyledus gan yr awdurdod sy'n gwneud y datgeliad, neu unrhyw gyfyngiad arall ar ddatgelu gwybodaeth; ond yn rhinwedd adran 183A o Ddeddf Diogelu Data 2018 bydd yn ddarostyngedig i ofynion deddfwriaeth diogelu data sy'n ymwneud â phrosesu data personol.

Troseddau

Adran 130 – Atebolrwydd troseddol uwch swyddogion cyrff

561. Mae'r adran hon yn darparu, pan fo corff corfforaethol, partneriaeth neu gymdeithas anghorfforedig yn cyflawni trosedd o dan y Ddeddf hon, yna mewn rhai amgylchiadau caiff rhai "uwch-swyddogion" neu bersonau sy'n honni eu bod yn gweithredu fel swyddog o'r fath, hefyd fod yn euog o gyflawni'r drosedd.

Rhoi hysbysiadau a dogfennau eraill

Adran 131 – Rhoi hysbysiadau a dogfennau eraill

562. Mae'r adran hon yn darparu ar gyfer sut y dylid rhoi hysbysiadau neu ddogfennau eraill i berson o dan unrhyw ddarpariaeth o'r Ddeddf neu reoliadau a wneir oddi tani. Mae'n cynnwys darpariaeth am, er enghraifft, y modd y gellir rhoi dogfennau (gan gynnwys i gyrff corfforaethol etc.) a phryd y maent yn cael eu trin fel eu bod wedi eu rhoi.

Adran 132 – Rhoi dogfennau i berson y mae ei enw yn anhysbys

563. Mae'r adran hon yn gwneud darpariaeth ar gyfer sut y dylid rhoi hysbysiadau neu ddogfennau eraill os nad yw enw'r person yn hysbys. Mae'n gymwys yn ychwanegol at adran 131.

Cyffredinol

Adran 133 – Ymgynghori cyn-gychwyn

564. Mae'r adran hon yn galluogi bodloni gofynion ymgynghori o dan y Ddeddf drwy ymgynghoriad sydd wedi ei gynnal cyn i'r gofyniad ymgynghori ei hun ddod i rym. Daw'r adran hon i rym drannoeth y diwrnod y caiff y Ddeddf hon y Cydsyniad Brenhinol (adran 138(1)(c)).

Adran 134 – Rheoliadau sy'n ei gwneud yn ofynnol i wybodaeth gael ei darparu: cyfrinachedd a diogelu data

565. Mae'r adran hon yn galluogi rheoliadau o dan adrannau 39, 49, 50 a 87 i osod dyletswyddau i rannu gwybodaeth sy'n drech na rhwymedigaethau cyfrinachedd. Yn rhinwedd adran 183A o Ddeddf Diogelu Data 2018, ni fydd dyletswydd a osodir gan y rheoliadau yn drech na gofyniad deddfwriaeth diogelu data sy'n ymwneud â phrosesu data personol (ond caiff hynny ei ystyried at ddibenion penodol o dan y ddeddfwriaeth honno).

Adran 135 – Rheoliadau o dan y Ddeddf hon: darpariaethau atodol a gweithdrefnol

566. Mae'r adran hon yn gwneud darpariaeth gyffredinol ynglŷn â rheoliadau a wneir o dan y Ddeddf. Mae hefyd yn nodi yn is-adrannau (5) a (6) ba reoliadau sy'n ddarostyngedig i weithdrefn gymeradwyo'r Senedd. Mae pob rheoliad arall yn ddarostyngedig i weithdrefn annilysu'r Senedd (is-adran (7)).

560. A disclosure of information under this section will not breach any obligation of confidence owed by the authority making the disclosure, or any other restriction on the disclosure of information; but by virtue of section 183A of the Data Protection Act 2018 it will be subject to the requirements of data protection legislation relating to the processing of personal data.

Offences

Section 130 - Criminal liability of senior officers of bodies

561. This section provides that where a corporate body, partnership or unincorporated association commits an offence under this Act, then in certain circumstances certain "senior officers" or persons purporting to act as such, may also be guilty of committing the offence.

Giving notices and other documents

Section 131 - Giving notices and other documents

562. This section provides for how notices or other documents are to be given to a person under any provision of the Act or regulations made under it. It includes provision about, for example, the manner in which documents can be given (including to corporate bodies etc.) and when they are treated as being given.

Section 132 - Giving documents to a person whose name is unknown

563. This section makes provision for how notices or other documents are to be given if the name of the person is unknown. It applies in addition to section 131.

General

Section 133 - Pre-commencement consultation

564. This section enables consultation requirements under the Act to be satisfied by consultation that has been undertaken before the consultation requirement itself comes into force. This section comes into force on the day after the day on which this Act receives Royal Assent (section 138(1)(c)).

Section 134 - Regulations requiring provision of information: confidentiality and data protection

565. This section enables regulations under sections 39, 49, 50 and 87 to impose duties to share information that override obligations of confidentiality. By virtue of section 183A of the Data Protection Act 2018, a duty imposed by the regulations will not override a requirement of data protection legislation relating to the processing of personal data (but will be taken into account for certain purposes under that legislation).

Section 135 - Regulations under this Act: supplementary and procedural provisions

566. This section makes general provision about regulations made under the Act. It also sets out in subsections (5) and (6) which regulations are subject to the Senedd approval procedure. All other regulations are subject to the Senedd annulment procedure (subsection (7)).

Adran 136 – Dehongli

567. Mae'r adran hon yn diffinio termau penodol a ddefnyddir yn y Ddeddf. Mae is-adran (3) yn cynnwys pŵer gwneud rheoliad mewn cysylltiad â'r ystyr o fod yn "preswylydd" uned breswyl.

Adran 137 – Darpariaeth ganlyniadol a darpariaeth drosiannol etc.

568. Cyflwynir Atodlenni 3 a 4 gan is-adrannau (1) a (2).

569. Mae is-adran (3) yn rhoi pŵer i Weinidogion Cymru wneud rheoliadau y caniateir ei ddefnyddio i wneud darpariaeth sy'n ddeilliadol neu'n atodol i unrhyw ddarpariaeth yn y Bil, neu sy'n ganlyniadol ar unrhyw ddarpariaeth yn y Ddeddf, ac i wneud darpariaeth drosiannol neu ddarpariaeth arbed. Caiff rheoliadau o dan is-adran (3) ddiwygio, diddymu neu ddirymu unrhyw ddeddfiad (gan gynnwys unrhyw un neu ragor o'r ddarpariaeth a gynhwysir yn y Ddeddf hon). Pan fo diwygiadau o dan is-adran (3) yn diwygio neu'n diddymu unrhyw ddarpariaeth o ddeddfwriaeth sylfaenol, maent yn ddarostyngedig i weithdrefn gymeradwyo'r Senedd (adran 135(6)).

Adran 138 – Dod i rym

570. Mae'r adran hon yn gwneud darpariaeth ynghylch pa bryd y mae darpariaethau'r Ddeddf yn dod i rym.

Adran 139 – Adroddiadau cynnydd ar ddwyn y Ddeddf hon i rym

571. Mae'r adran hon yn gosod dyletswydd ar Weinidogion Cymru i adrodd ar y cynnydd o ddod â'r Ddeddf hon i rym. Rhaid cyhoeddi adroddiad a'i osod gerbron Senedd Cymru ar ysbeidiau penodol hyd nes y bydd y Ddeddf mewn grym yn llawn.

Adran 140 – Enw byr

572. Mae adran 140 yn nodi enw byr y Ddeddf, y gellir ei ddefnyddio wrth enwi'r Ddeddf ac wrth gyfeirio ati. Caniateir defnyddio naill ai enw Cymraeg neu enw Saesneg y Ddeddf, gan gynnwys fel cyfeiriad mewn deddfiadau eraill.

Atodlen 1 – Adeiladau sydd wedi eu heithrio rhag bod yn adeiladau rheoleiddiedig

573. Mae'r Atodlen hon yn rhestru adeiladau sydd wedi eu heithrio rhag bod yn adeiladau rheoleiddiedig ac felly nad ydynt wedi eu cwmpasu gan y Ddeddf.

Atodlen 2 – Gorchmynion mesurau arbennig

Rhan 1 – Y weithdrefn cyn gwneud cais am orchymyn mesurau arbennig

Rhagarweiniol

574. Mae'r paragraff hwn yn darparu, cyn i awdurdod diogelwch adeiladau, neu awdurdod diogelwch tân, ar gyfer adeilad categori 1 wneud cais am orchymyn mesurau arbennig, rhaid iddynt gael cytundeb y llall. Rhaid i'r awdurdod sy'n gwneud y cais am y gorchymyn hefyd fod wedi cydymffurfio â gofynion Rhan 1 o Atodlen 2.

Section 136 - Interpretation

567. This section defines certain terms used in the Act. Subsection (3) includes a regulation making power in respect of the meaning of being a "resident" of a residential unit.

Section 137 - Consequential and transitional provision etc.

568. Schedules 3 and 4 are introduced by subsections (1) and (2).

569. Subsection (3) confers upon the Welsh Ministers a regulation making power which may be used to make provision that is incidental or supplementary to, or consequential on, any provision of the Act, and to make transitional or saving provision. Regulations under subsection (3) may amend, repeal or revoke any enactment (including any provision contained in this Act). Where amendments under subsection (3) amend or repeal any provision of primary legislation, they are subject to the Senedd approval procedure (section 135(6)).

Section 138 - Coming into force

570. This section makes provision about when the provisions of the Act come into force.

Section 139 - Progress reports on bringing this Act into force

571. This section places a duty on the Welsh Ministers to report on the progress in bringing the Act into force. A report must be published and laid before Senedd Cymru at specified intervals until the Act is fully in force.

Section 140 - Short title

572. Section 140 sets out the short title of the Act, by which it may be known and referred. Either the Welsh or the English language title of the Act may be used, including as a citation in other enactments.

Schedule 1 - Buildings that are excluded from being regulated buildings

573. This Schedule lists buildings that are excluded from being regulated buildings and thus not covered by the Act.

Schedule 2 - Special measures orders

Part 1 - Procedure before applying for special measures order

Introductory

574. This paragraph provides that before a building safety authority, or a fire safety authority, for a category 1 building apply for a special measure order they must obtain the agreement of the other. The authority making the application for the order must also have complied with the requirements of Part 1 of Schedule 2.

Hysbysiad bod yr awdurdod yn bwriadu gwneud cais am orchymyn mesurau arbennig

575. Mae'r paragraff hwn yn darparu i bob person arall sy'n "person a chanddo fuddiant" (a ddiffinnir ym mharagraff 21 o'r Atodlen hon) mewn perthynas â'r adeilad gael ei hysbysu gan yr awdurdod am gynnig yr awdurdod i wneud cais am orchymyn mesurau arbennig (is-baragraff (1)). Pennir yr hyn y mae rhaid ei gynnwys yn yr hysbysiad yn is-baragraff (2). Bydd y gofyniad hysbysu yn rhoi cyfle i "person a chanddo fuddiant" gyflwyno sylwadau mewn ymateb i'r hysbysiad.

Hysbysiad o benderfyniad yr awdurdod ynghylch a ddylid gwneud cais am orchymyn

576. Mae'r paragraff hwn yn ei gwneud yn ofynnol i'r awdurdod, ar ôl i'r cyfnod y caiff personau a chanddynt fuddiant gyflwyno sylwadau i'r hysbysiad a roddir o dan baragraff 2 fynd heibio, benderfynu a ddylid gwneud y cais am orchymyn a rhoi hysbysiad o'i benderfyniad i bob person arall sy'n berson a chanddo fuddiant (is-baragraff (2)). Nodir yr hyn y mae rhaid ei gynnwys yn yr hysbysiad yn is-baragraff (3).

Gofyniad i gynnwys cynnig rheoli ariannol gyda hysbysiad o gynnig neu benderfyniad

577. Mae'r paragraff hwn yn gwneud darpariaeth ar gyfer pryd y mae rhaid cynnwys cynnig rheoli ariannol gyda'r hysbysiadau i bersonau a chanddynt fuddiant a roddir o dan baragraffau 2 a 3. Mae hefyd yn gwneud darpariaeth ynghylch yr hyn y mae rhaid i gynnig rheoli ariannol ei gynnwys (is-baragraff (3)).

Darpariaeth bellach ynghylch rhoi hysbysiadau o dan y Rhan hon

578. Efallai y bydd achosion pan na fydd yr awdurdod diogelwch adeiladau neu'r awdurdod diogelwch tân, sy'n dyroddi hysbysiad neu gynnig rheoli ariannol o dan baragraffau 2 a 3, yn ymwybodol o berson a chanddo fuddiant. Mae'r paragraff hwn yn gosod cafeat ar y dyletswyddau ym mharagraffau 2 a 3, er mwyn iddynt beidio â'i gwneud yn ofynnol i hysbysiadau a chynigion rheoli ariannol gael eu rhoi i berson a chanddo fuddiant os nad yw'r awdurdod yn ymwybodol o'r person a'i fod wedi cymryd pob cam rhesymol i adnabod y personau mewn perthynas â'r adeilad.

Rhan 2 – Darpariaeth bellach ynghylch effaith gorchymyn mesurau arbennig ac ynghylch ei weithredu

Swyddogaethau i'w cyflawni gan reolwr mesurau arbennig

579. Mae'r paragraff hwn yn gwneud darpariaeth mewn perthynas â swyddogaethau diogelwch adeiladau person atebol pan fo gorchymyn mesurau arbennig mewn grym h.y. bod y swyddogaethau hynny i'w trin fel swyddogaethau'r rheolwr mesurau arbennig a benodir gan y gorchymyn (ac na chaniateir i'r person atebol eu harfer (yn ddarostyngedig i is-baragraff (3))). Mae is-baragraff (3) yn gwneud darpariaeth wahanol mewn cysylltiad â swyddogaethau penodol (sy'n ymwneud â cheisiadau ac apelau i dribiwnlys).

Notice that authority proposes to apply for special measures order

575. This paragraph provides for every other person who is an "interested person" (defined in paragraph 21 of this Schedule) in relation to the building to be notified by the authority of the authority's proposal to apply for a special measures order (sub-paragraph (1)). What must be contained in the notice is specified in sub-paragraph (2). The notice requirement will give an opportunity for an "interested person" to make representations in response to the notice.

Notice of authority's decision whether to apply for order

576. This paragraph requires the authority, after the period in which interested persons may make representations to the notice given under paragraph 2 has passed, to decide whether to make the application for an order and to give notice of its decision to every other interested person (sub-paragraph (2)). What must be contained in the notice is set out in sub-paragraph (3).

Requirement to include financial management proposal with notice of proposal or decision

577. This paragraph makes provision for when a financial management proposal must be included with the notices to interested persons given under paragraphs 2 and 3. It also makes provision as to what a financial management proposal must include (sub-paragraph (3)).

Further provision about giving notices under this Part

578. There may be cases in which the building safety authority or the fire safety authority, that is issuing a notice or financial management proposal under paragraphs 2 and 3, is not aware of an interested person. This paragraph places a caveat on the duties in paragraphs 2 and 3, so as for them not to require notices and financial management proposals to be given to an interested person if the authority is not aware of the person and have taken all reasonable steps to identify the persons in relation the building.

Part 2 - Further provision about effect and implementation of special measures order

Functions to be carried out by special measures manager

579. This paragraph makes provision in relation to the building safety functions of an accountable person where a special measures order is in force i.e. that those functions are to be treated as the functions of the special measures manager appointed by the order (and may not be exercised by the accountable person (subject to sub-paragraph (3))). Sub-paragraph (3) makes different provision in respect of certain functions (relating to applications and appeals to a tribunal).

Effaith gorchymyn mesurau arbennig ar hysbysiadau cydymffurfio

580. Mae'r paragraff hwn yn gwneud darpariaeth mewn perthynas ag effaith gorchymyn ar hysbysiad cydymffurfio pan wneir y gorchymyn mewn perthynas â swyddogaethau diogelwch adeiladau'r person atebol sy'n ddarostyngedig i'r hysbysiad cydymffurfio h.y. bydd yr hysbysiad cydymffurfio yn peidio â chael effaith. Mae hyn oherwydd nad yw'r person atebol bellach yn gallu arfer ei swyddogaethau diogelwch adeiladau ac felly ni fydd yn gallu cydymffurfio â'r hysbysiad unwaith y bydd y gorchymyn wedi ei wneud. Fodd bynnag, byddai'r person atebol yn dal i fod yn atebol am fethiant i gydymffurfio â thelerau hysbysiad cydymffurfio pan ddigwyddodd y methiant hwnnw cyn i'r gorchymyn gael ei wneud.

Effaith gorchymyn mesurau arbennig ar gontractau perthnasol

581. Wrth gyflawni eu swyddogaethau diogelwch adeiladau, gall person atebol fod wedi ymrwymo i gontract gydag eraill. Er enghraifft, gallent fod wedi ymrwymo i gontract gyda chwmni adeiladu i unioni risg diogelwch adeilad yn yr adeilad.

582. Pan fydd gorchymyn mesurau arbennig ar waith a'i fod yn darparu i swyddogaethau diogelwch adeiladau person atebol gael eu cyflawni gan reolwr mesurau arbennig, mae'r paragraff hwn yn galluogi'r rheolwr mesurau arbennig i gymryd lle'r person atebol yn effeithiol (yn amodol ar hysbysiad yn cael ei roi o dan is-baragraff (2)(a)). Mae'r paragraff hwn yn gymwys yn unig i "contractau perthnasol" a "hawl a atebolrwydd perthnasol" (a ddiffinnir yn is-baragraffau (3) a (4)).

Effaith gorchymyn mesurau arbennig ar achosion cyfreithiol

583. Mewn rhai achosion, pan fydd gorchymyn mesurau arbennig yn cael ei wneud, efallai y bydd achos cyfreithiol eisoes yn mynd rhagddo yn erbyn y person atebol (y mae ei swyddogaethau bellach yn rhai y rheolwr mesurau arbennig). Diben y paragraff hwn yw darparu i'r rheolwr mesurau arbennig ddwyn "sail achos perthnasol" (diffinnir y term hwn yn is-baragraff (3)), parhau ag achos o'r fath neu amddiffyn achos i'r fath.

Ad-dalu iawndal a dalwyd gan reolwr mesurau arbennig

584. Mae'r paragraff hwn yn gwneud darpariaeth i berson atebol fod yn atebol i ad-dalu'r rheolwr mesurau arbennig yn y sefyllfaoedd a nodir yn y paragraff hwn e.e. pan fo'r rheolwr yn ddarostyngedig i atebolrwydd i dalu iawndal oherwydd bod y person atebol yn gwneud rhywbeth, neu'n methu â gwneud rhywbeth, cyn penodi'r rheolwr.

Taliadau a gafwyd gan reolwr mesurau arbennig i'w dal mewn ymddiriedolaeth

585. Mae'r paragraff hwn yn darparu ar gyfer y ffordd y mae rhaid i unrhyw daliadau, sydd i'w gwneud o dan orchymyn mesurau arbennig gan berson atebol i'r rheolwr mesurau arbennig ar gyfer yr adeilad, gael eu dal (is-baragraffau (2) a (3)). Mae'r cronfeydd i'w cadw mewn ymddiriedolaeth i dalu costau yr aed iddynt gan y rheolwr mesurau arbennig mewn cysylltiad ag arfer ei swyddogaethau rheoli, ac yn ddarostyngedig i hyn ar ymddiriedolaeth i'r person neu'r personau atebol perthnasol. Mae is-adran (4) yn darparu ar gyfer sut y mae'r person neu'r personau atebol i'w drin neu i'w trin o ran ei hawl neu eu hawl i unrhyw gronfeydd sy'n weddill.

Effect of special measures order on compliance notices

580. This paragraph makes provision in relation to the effect of an order on a compliance notice where the order is made in relation to the building safety functions of the accountable person subject to the compliance notice i.e. the compliance notice will cease to have effect. This is because the accountable person is no longer able to exercise their building safety functions and so they will be unable to comply with the notice once the order is made. However, the accountable person would still be liable for a failure to comply with the terms of a compliance notice where that failure occurred before the order was made.

Effect of special measures order on relevant contracts

581. In carrying out their building safety functions an accountable person may have entered into contract with others. For example, they could have entered into a contract with a construction firm to remediate a building safety risk in the building.

582. When a special measures order is in place and it provides for the building safety functions of an accountable person to be carried out by a special measures manager, this paragraph enables the special measures manager to effectively take the place of the accountable person (subject to notice being given under sub-paragraph (2)(a)). This paragraph only applies to "relevant contracts" and a "relevant right and liability" (defined in sub-paragraphs (3) and (4)).

Effect of special measures order on legal proceedings

583. In some cases, when a special measures order is made, there may be legal proceedings that are already underway against the accountable person (whose functions are now those of the special measures manager). The purpose of this paragraph is to provide for the special measures manager to bring, continue or defend a "relevant cause of action" (this term is defined in sub-paragraph (3)).

Reimbursement of damages paid by special measures manager

584. This paragraph makes provision for an accountable person to be liable to reimburse the special measures manager in the scenarios detailed in this paragraph e.g. where the manager is subject to liability to pay damages due to the accountable person doing, or failing to do something, prior to the manager's appointment.

Payments received by special measures manager to be held on trust

585. This paragraph provides for the way in which any payments, that under a special measures order must be made by an accountable person to the special measures manager for the building, must be held (sub-paragraphs (2) and (3)). The funds are to be held on trust to meet costs that the special measures manager incurs in connection with the exercise of their management functions, and subject to this on trust for the relevant accountable person or persons. Subsection (4) provides for how the accountable person or persons is to be treated in terms of their entitlement to any remaining funds.

Pŵer tribiwnlys i roi cyfarwyddydau pellach

586. Mae'r paragraff hwn yn darparu ar gyfer tribiwnlys eiddo preswyl, pan fo gorchymyn mesurau arbennig mewn grym, i gyfarwyddo rheolwr mesurau arbennig ar gyfer yr adeilad (neu unrhyw berson arall) mewn cysylltiad ag unrhyw fater sy'n ymwneud ag arfer swyddogaethau'r rheolwr ac unrhyw fater deilliadol neu ategol. Mae'r personau sy'n gallu gwneud cais am gyfarwyddyd o'r fath wedi eu rhestru yn is-baragraff (3).

Newid mewn person atebol

587. Mae'r paragraff hwn yn darparu, os yw person atebol ar gyfer adeilad (y mae gorchymyn mesurau arbennig yn berthnasol i'w swyddogaethau diogelwch adeiladau) yn peidio â bod yn berson atebol, yna mae'r gorchymyn yn peidio â bod yn berthnasol i'r person hwnnw. Os yw person atebol yn peidio â bod yn berson atebol am ran o adeilad yn unig, yna mae hyn yn gymwys yn unig mewn cysylltiad â'r rhan honno nad yw bellach yn gyfrifol amdani. Mae is-baragraff (6) yn gwneud darpariaeth am atebolrwydd person o'r fath o dan y gorchymyn cyn yr "adeg berthnasol". Bydd y gorchymyn yn gymwys i olynydd y person atebol (is-baragraff (5), pan fo'r meini prawf yn is-baragraff (4) wedi eu bodloni).

Rhan 3 – Adolygu, amrywio a dirymu gorchymyn mesurau arbennig

Hyd y gorchymyn mesurau arbennig

588. Mae'r paragraff hwn yn hunanesboniadol.

Yr awdurdod i gadw materion penodol o dan adolygiad

589. Mae'r paragraff hwn yn darparu i'r awdurdod diogelwch adeiladau neu'r awdurdod diogelwch tân (pa bynnag awdurdod a wnaeth y cais am y gorchymyn mesurau arbennig) adolygu o bryd i'w gilydd faterion penodol mewn perthynas â gweithrediad gorchymyn mesurau arbennig (is-baragraff (2)). Rhaid cynnal adolygiad o leiaf bob 12 mis ac os yw'r awdurdod o'r farn wrth adolygu y dylid amrywio cyfnod y gorchymyn, rhaid iddo wneud cais am amrywiad o dan baragraff 16, yn ddarostyngedig i'r darpariaethau yn y paragraff hwnnw (is-baragraff (3)).

Amrywio neu ddirymu gorchymyn mesurau arbennig

590. Mae'r paragraff hwn yn gwneud darpariaeth mewn cysylltiad ag amrywio a dirymu gorchmynion mesurau arbennig. Mae hyn yn cynnwys darpariaeth ar gyfer pwy all wneud cais i'r tribiwnlys eiddo preswyl i amrywio neu ddirymu gorchymyn mesurau arbennig a chyfyngiadau (is-baragraffau (1) a (4)), y camau y mae rhaid eu cymryd cyn i'r cais gael ei wneud (is-baragraffau (2) a (3)), a'r materion y mae rhaid i'r tribiwnlys roi sylw iddynt wrth ystyried a ddylid amrywio neu ddirymu gorchymyn (is-baragraff (5), ond mae hyn yn ddarostyngedig i is-baragraff (6)).

Y weithdrefn cyn i awdurdod wneud cais i amrywio gorchymyn mesurau arbennig

591. Diben y paragraff hwn yw sicrhau bod personau a chanddynt fuddiant, sy'n cael eu hysbysu mewn perthynas â chais am orchymyn mesurau arbennig, hefyd yn cael eu hysbysu am gais i amrywio neu ddirymu gorchymyn mesurau arbennig. Bwriad hyn yw sicrhau bod personau a chanddynt fuddiant yn cael eu diweddaru ynghylch pwy sy'n gyfrifol am ddyletswyddau diogelwch adeiladau yn yr adeilad, a bod cyfle iddynt gyflwyno sylwadau i'r awdurdod perthnasol am yr amrywiad arfaethedig i'r gorchymyn.

Power of tribunal to give further directions

586. This paragraph provides for a residential property tribunal, where a special measures order is in force, to direct a special measures manager for the building (or any other person) with respect to any matter relating to the exercise of the manager's functions and any incidental or ancillary matter. The persons who can apply for such a direction are listed in sub-paragraph (3).

Change in accountable person

587. This paragraph provides that, if an accountable person for a building (to whose building safety functions a special measures order applies) ceases to be the accountable person then the order ceases to apply to that person. If an accountable person only ceases to be an accountable person for part of a building, then this only applies in respect of that part for which they are no longer responsible. Sub-paragraph (6) makes provision about such a person's liability under the order before the "relevant time". The order will apply to the accountable person's successor (sub-paragraph (5), where criteria in sub-paragraph (4) are met).

Part 3 - Review, variation and revocation of special measures order
Duration of special measures order

588. This paragraph is self- explanatory.

Authority to keep certain matters under review

589. This paragraph provides for the building safety authority or fire safety authority (whichever authority applied for the special measures order) to keep under review certain matters in relation to the functioning of a special measures order (sub-paragraph (2)). A review must take place at least every 12 months and if, on review, the authority considers that a term of the order should be varied, it must apply for a variation under paragraph 16, subject to the provisions in that paragraph (sub-paragraph (3)).

Variation or revocation of special measures order

590. This paragraph makes provision in respect of the varying and revocation of special measures orders. This includes provision for who may apply to the residential property tribunal for a special measures order to be varied or revoked and restrictions (sub-paragraphs (1) and (4)), steps that must be taken before the application is made (sub-paragraphs (2) and (3)), and the matters to which the tribunal must have regard in considering whether to vary or revoke an order (sub-paragraph (5), but this is subject to sub-paragraph (6)).

Procedure before authority applies to vary special measures order

591. The purpose of this paragraph is to ensure that interested persons, who are notified in relation to an application for a special measures order, are also notified about an application to vary or revoke a special measures order. This is intended to ensure that interested persons are kept up to date about who is responsible for building safety duties in the building, and that they are given an opportunity to make representations about the proposed variation of the order to the relevant authority.

Cyfarwyddydau pan fo gorchymyn mesurau arbennig yn cael ei amrywio neu ei ddirymu

592. Mae'r paragraff hwn yn gwneud darpariaeth mewn perthynas â phan gaiff gorchymyn mesurau arbennig ei amrywio neu ei ddirymu. Pan fo gorchymyn yn cael ei ddirymu neu ei amrywio, caiff y tribiwnlys roi cyfarwyddydau i unrhyw berson (is-baragraff (1)). Pan fydd gorchymyn yn cael ei ddirymu, rhaid i'r tribiwnlys gyfarwyddo'r rheolwr mesurau arbennig i lunio cyfrif cysoni. Diffinnir "cyfrif cysoni" yn is-baragraff (4).

593. Rhaid rhoi copi o'r cyfrif cysoni i'r awdurdod a wnaeth gais am y gorchymyn ac i bob person atebol perthnasol (is-baragraff (2)). Bwriad y darpariaethau hyn yw sicrhau tryloywder a chyflawnrwydd mewn perthynas ag ymdrin â materion ariannol tra bod y gorchymyn mesurau arbennig ar waith.

Rhan 4 – Atodol

Hysbysiadau sy'n ymwneud â gorchymyn mesurau arbennig

594. Mae'r paragraff hwn yn darparu i'r awdurdod diogelwch adeiladau neu'r awdurdod diogelwch tân (y gwnaed y gorchymyn ar ei gais) gymryd yr holl gamau rhesymol i hysbysu personau a chanddynt fuddiant am wneud, amrywio neu ddirymu gorchymyn.

Pŵer y tribiwnlys i ddiwygio gorchymyn o dan adran 24 o Ddeddf Landlord a Thenant 1987

595. Mae adran 24 o Ddeddf Landlord a Thenant 1987 yn rhoi'r pŵer i'r tribiwnlys eiddo preswyl, yn dilyn cais gan denantiaid adeilad, i benodi rheolwr ar gyfer eiddo yn lle'r landlord neu asiant y landlord.

596. Gelwir rheolwr a benodir o dan adran 24 o'r Ddeddf honno yn aml yn "rheolwr adran 24".

597. Mae'r ddarpariaeth hon yn galluogi'r tribiwnlys i ddiwygio gorchymyn a wnaed o dan adran 24 o Ddeddf Landlord a Thenant 1987 i sicrhau nad yw'r swyddogaethau sydd i'w cyflawni yn rhinwedd y gorchymyn hwnnw yn cynnwys unrhyw swyddogaethau a fydd yn cael eu cyflawni gan y rheolwr mesurau arbennig (o dan y gorchymyn mesurau arbennig).

Ystyr "person a chanddo fuddiant"

598. Mae'r paragraff hwn yn hunanesboniadol.

Atodlen 3 – Mân ddiwygiadau a diwygiadau canlyniadol

599. Mae paragraff 1 yn diwygio Deddf Iechyd a Diogelwch yn y Gwaith 1974 ("Deddf 1974") drwy fewnosod adran 51B. Mae adran 51B yn ategu, mewn perthynas ag adeiladau rheoleiddiedig a feddiennir a thai amlfeddiannaeth perthnasol, ddarpariaeth a wneir gan erthygl 47(1) o'r Gorchymyn Diwygio Rheoleiddio (Diogelwch Tân) 2005 ("GDT").

Directions where special measures order is varied or revoked

592. This paragraph makes provision in relation to where a special measures order is varied or revoked. Where an order is revoked or varied the tribunal may give directions to any person (sub-paragraph (1)). Where an order is revoked, the tribunal must direct the special measures manager to prepare a reconciliation account. "Reconciliation account" is defined in sub-paragraph (4).

593. A copy of the reconciliation account must be given to the authority that applied for the order and to each relevant accountable person (sub-paragraph (2)). These provisions are intended to ensure transparency and completeness in relation to the handling of financial matters while the special measures order was in place.

Part 4 - Supplementary

Notifications relating to special measures order

594. This paragraph provides for the building safety authority or the fire safety authority (on whose application the order was made) to take all reasonable steps to notify interested persons about the making, variation or revocation of an order.

Power of tribunal to amend order under section 24 of the Landlord and Tenant Act 1987

595. Section 24 of the Landlord and Tenant Act 1987 gives the residential property tribunal the power, following an application by tenants of a building, to appoint a manager for a property in place of the landlord or the landlord's agent.

596. A manager appointed under section 24 of that Act is often known as a "section 24 manager".

597. This provision enables the tribunal to amend an order made under section 24 of the Landlord and Tenant Act 1987 to ensure that the functions to be carried out by virtue of that order do not include any functions that will be carried out by the special measures manager (under the special measures order).

Meaning of "interested person"

598. This paragraph is self-explanatory.

Schedule 3 - Minor and consequential amendments

599. Paragraph 1 amends the Health and Safety at Work Act 1974 ("the 1974 Act") by inserting section 51B. Section 51B complements, in relation to occupied regulated buildings and relevant HMOs, provision made by article 47(1) of the Regulatory Reform (Fire Safety) Order 2005 ("FSO").

600. Mae erthygl 47(1) o'r GDT yn datgymhwyso darpariaethau Deddf 1974, a darpariaethau a wnaed o dan y Ddeddf honno, i'r graddau y mae'r darpariaethau hynny'n ymwneud â materion y mae gofynion wedi eu gosod ar y GDT, neu y gellir gosod gofynion ar y GDT, mewn perthynas â hwy. Er enghraifft, mae rheoliad 3(1) o Reoliadau Rheoli Iechyd a Diogelwch yn y Gwaith 1999 (a wnaed o dan Ddeddf 1974) yn ei gwneud yn ofynnol i gyflogwyr gynnal asesiadau risg o weithleoedd. Nid yw asesiadau risg o'r fath yn cwmpasu materion diogelwch tân oherwydd bod erthygl 9 o'r GDT yn ei gwneud yn ofynnol i'r cyflogwr gynnal asesiad risg tân.

601. I'r graddau y mae'r GDT yn parhau i fod yn gymwys i adeiladau rheoleiddiedig a thai amlfeddiannaeth perthnasol (gweler baragraff 10 o Atodlen 3 i'r Ddeddf hon), bydd erthygl 47 yn parhau i ddatgymhwyso darpariaeth a wneir gan Ddeddf 1974 neu oddi tani.

602. Bydd adran 51B yn parhau i ddatgymhwyso, mewn perthynas ag adeiladau rheoleiddiedig a thai amlfeddiannaeth perthnasol, ddarpariaethau Deddf 1974 i'r graddau y maent yn ymwneud ag unrhyw fater y mae gofynion wedi eu gosod ar y GDT, neu o dan y GDT, gan i'r GDT gael effaith cyn iddo gael ei ddatgymhwyso'n rhannol gan baragraff 10 o Atodlen 3 i'r Ddeddf hon. Felly, bydd y datgymhwysiad presennol o Ddeddf 1974 a darpariaethau a wneir oddi tani yn cael eu cynnal mewn perthynas ag adeiladau rheoleiddiedig a thai amlfeddiannaeth perthnasol.

603. Mae paragraffau 3 i 4 o'r Atodlen hon yn gwneud diwygiadau canlyniadol i adrannau 24 a 24ZA o Ddeddf Landlord a Thenant 1987 mewn cysylltiad â rheolwyr mesurau arbennig, i sicrhau na ellir penodi rheolwr adran 24 i arfer swyddogaethau sy'n arferadwy gan reolwr mesurau arbennig, ac i ddarparu y gall rheolwr mesurau arbennig wneud cais i benodi rheolwr adran 24.

604. Mae paragraffau 6 a 7 o'r Atodlen hon yn diwygio adrannau 2 a 4 o Ddeddf Gwasanaethau Tân ac Achub 2004 yn sgil nodi'r diffiniad o awdurdod diogelwch adeiladau yn adran 122 o'r Ddeddf ac yn benodol, y cyfeiriad yn adran 122(8) at ardal yr awdurdod tân ac achub yng Nghymru sy'n cael ei dehongli yn unol â Rhan 1 o Ddeddf Gwasanaethau Tân ac Achub 2004. Byddai hyn yn caniatáu i effaith bresennol adran 122 gael ei chadw pe byddai newidiadau'n cael eu gwneud i ardaloedd awdurdodau tân ac achub drwy orchmynion a wneir o dan Ddeddf Gwasanaethau Tân ac Achub 2004.

605. Mae paragraff 8 o'r Atodlen hon yn diwygio adran 18B(8) o Ddeddf Gwasanaethau Tân ac Achub 2004 i atal awdurdod tân ac achub rhag codi tâl am arfer ei swyddogaethau fel awdurdod gorfodi o dan y Ddeddf.

606. Mae paragraffau 9 i 12 o'r Atodlen hon yn diwygio'r GDT i osgoi dyblygu diangen rhwng y GDT a'r Ddeddf. Mae paragraff 10 yn mewnosod erthygl 7A newydd yn y GDT. Mae erthygl 7A(1) yn darparu, ac eithrio pan fo paragraff (4) neu (5) yn gymwys, nad yw prif ddarpariaethau'r GDT sy'n gosod dyletswyddau ar bersonau cyfrifol yn gymwys i adeiladau rheoleiddiedig a feddiennir neu dŷ amlfeddiannaeth perthnasol.

600. Article 47(1) of the FSO disapplies provisions of the 1974 Act, and provisions made under that Act, insofar as those provisions relate to matters in relation to which requirements are or could be imposed by the FSO. For example, regulation 3(1) of the Management of Health and Safety at Work Regulations 1999 (made under the 1974 Act) requires employers to undertake risk assessments of workplaces. Such risk assessments do not cover fire safety matters because article 9 of the FSO requires the employer to carry out a fire risk assessment.

601. To the extent that the FSO continues to apply to regulated buildings and relevant HMOs (see paragraph 10 of Schedule 3 to this Act), article 47 will continue to disapply provision made by or under the 1974 Act.

602. Section 51B will continue to disapply, in relation to regulated buildings and relevant HMOs, provisions of the 1974 Act insofar as they relate to any matter in relation to which requirements were or could have been imposed by or under the FSO as the FSO had effect just before it was partially disapplied by paragraph 10 of Schedule 3 to this Act. Therefore, the existing disapplication of the 1974 Act and provisions made under it will be maintained in relation to regulated buildings and relevant HMOs.

603. Paragraphs 3 to 4 of this Schedule make consequential amendments to sections 24 and 24ZA of the Landlord and Tenant Act 1987 in respect of special measures managers, to ensure that a section 24 manager cannot be appointed to exercise functions that are exercisable by a special measures manager, and to provide that a special measures manager can make an application for the appointment of a section 24 manager.

604. Paragraphs 6 and 7 of this Schedule amend sections 2 and 4 of the Fire and Rescue Services Act 2004 in the light of the definition of building safety authority set out in section 122 of the Act and in particular the reference in section 122(8) to the area of a fire and rescue authority in Wales being interpreted in accordance with Part 1 of the Fire and Rescue Services Act 2004. This would allow the current effect of section 122 to be retained should changes be made to the areas of fire and rescue authorities by orders made under the Fire and Rescue Services Act 2004.

605. Paragraph 8 of this Schedule amends section 18B (8) of the Fire and Rescue Services Act 2004 to prevent a fire and rescue authority from charging for exercising its functions as an enforcing authority under the Act.

606. Paragraphs 9 to 12 of this Schedule amend the FSO to avoid unnecessary duplication between the FSO and the Act. Paragraph 10 inserts new article 7A into the FSO. Article 7A (1) provides that, except where paragraph (4) or (5) applies, the main provisions of the FSO that impose duties on responsible persons do not apply to occupied regulated buildings or relevant HMOs.

607. Mae paragraff (4) yn gwneud darpariaeth i'r GDT barhau i fod yn gymwys i'r graddau bod y fangre hefyd yn weithle, neu bod gwaith yn cael ei wneud yno fel arall (er enghraifft, gan bobl hunangyflogedig). Er nad yw'r rhan fwyaf o'r adeiladau a gwmpesir gan y Ddeddf fel arfer yn weithleoedd, mae rhai ohonynt yn weithleoedd (e.e. os yw gofalwr neu borthor yn cael ei gyflogi ar y safle), a gallai gwaith gael ei wneud yn unrhyw un neu ragor ohonynt dros dro, er enghraifft pan fydd contractwyr neu grefftwyr yn gweithio ar y safle. Mae gweithleoedd a gweithgarwch gwaith yn arwain at wahanol fathau o risg tân a'r angen am wahanol fesurau lliniaru o gymharu â mangre breswyl yn unig, a bydd y risgiau hyn sy'n benodol i'r gwaith yn parhau i gael eu cwmpasu gan y GDT.

608. Er enghraifft, tybiwch fod gofalwr yn gweithio yn rhannau cyffredin bloc o fflatiau. Y rhannau cyffredin hynny yw ei weithle. Er fod y Ddeddf yn gymwys i'r bloc yn ei gyfanrwydd a'i breswylwyr, bydd gwaith y gofalwr gan gynnwys, er enghraifft, unrhyw sylweddau fflamadwy a ddefnyddir yn ystod ei waith yn parhau i gael eu llywodraethu gan y GDT. Mae'n dal yn ofynnol i'w gyflogwr gynnal asesiad risg a chymryd mesurau diogelwch tân priodol o dan y GDT. Gallai'r cyflogwr hwnnw fod y prif berson atebol, ac yn yr achos hwnnw dylai fod yn bosibl ymgorffori'r asesiad risg GDT ac asesiad risg tân y Ddeddf yn yr un ddogfen. Ond pan fo'r cyflogwr yn drydydd parti, bydd rhaid iddo gynnal ei asesiad risg ei hunan o dan y GDT i gyflawni ei gyfrifoldebau i'w staff a "personau perthnasol" eraill (a ddiffinnir yn erthygl 2 o'r GDT). Pan nad yw mangre yn weithle, ond bod gwaith yn cael ei wneud ynddi, arni neu iddi, bydd y GDT yn parhau i fod yn gymwys i'r graddau hynny.

609. Mae paragraff (3) o erthygl 7A newydd yn anghymhwyso erthyglau 37 a 38 o'r GDT o adeiladau yng nghwmpas y Ddeddf, ac eithrio pan fo paragraff (5) yn gymwys. Mae erthyglau 37 a 38 yn ymdrin â diffodd tân ar y fangre a diogelu diffoddwyr tân; gellir ymdrin â'r materion hyn fel y bo'n briodol mewn rheoliadau o dan adrannau 32, 33, 84 a 85 o'r Ddeddf.

610. Mae'r GDT yn parhau i fod yn gymwys i fangre, megis mangre fasnachol, o fewn adeilad rheoleiddiedig a feddiennir nad oes person atebol yn gyfrifol amdano o dan reoliadau a wneir o dan adran 16 o'r Ddeddf (paragraff (5)). Mae mannau masnachol o'r fath yn cynnwys swyddfeydd neu siopau sydd o fewn adeilad rheoleiddiedig a feddiennir (yn hytrach na fod, er enghraifft, yn rhannau amhreswyl (gweler adran 4) uwch ben neu o dan adeilad rheoleiddiedig).

611. Mae paragraff 11 o'r Atodlen hon yn diwygio erthygl 21A o'r GDT fel ei bod yn gymwys i Loegr yn unig. Mae'r erthygl hon yn ymdrin â darparu gwybodaeth i breswylwyr adeiladau preswyl penodol. O dan y Ddeddf gellir gwneud gofynion tebyg, er enghraifft o dan adran 49 (dyletswydd person atebol i roi gwybodaeth a dogfennau i bersonau eraill).

607. Paragraph (4) makes provision for the continued application of the FSO to the extent that the premises are a workplace, or that work is otherwise taking place there (for instance, by self-employed people). While most of the buildings covered by the Act are not normally workplaces, some of them are (e.g. if a caretaker or concierge is employed on the premises), and any of them could temporarily have work undertaken in them, for example when contractors or tradespeople are working on the premises. Workplaces and work activities give rise to different types of fire risk and the need for different mitigation measures compared to purely residential premises, and these specific work-related risks will remain covered by the FSO.

608. For example, assume that a caretaker works in the common parts of a block of flats. Those common parts are their workplace. While the Act applies to the block as a whole and its residents, the work of the caretaker including, for example, any flammable substances used during their work remain governed by the FSO. Their employer still has to conduct a risk assessment and take appropriate fire safety measures under the FSO. That employer might be the principal accountable person, in which case it should be possible to incorporate the FSO risk assessment and the Act fire risk assessment into the same document. But where the employer is a third party, they will have to conduct their own risk assessment under the FSO to discharge their responsibilities to their staff and other "relevant persons" (defined in article 2 of the FSO). Where premises are not a workplace, but work is taking place in, on or to the premises, the FSO will continue to apply to that extent.

609. Paragraph (3) of new article 7A disapplies articles 37 and 38 of the FSO from buildings in scope of the Act except where paragraph (5) applies. Articles 37 and 38 deal with firefighting on the premises and the protection of firefighters; these issues can be covered as appropriate in regulations under sections 32, 33, 84 and 85 of the Act.

610. The FSO continues to apply to premises, such as commercial premises, within an occupied regulated building for which no accountable person is responsible under regulations made under section 16 of the Act (paragraph (5)). Such commercial areas include offices or shops that are within an occupied regulated building (as opposed to being, for example, non-residential parts (see section 4) above or below a regulated building).

611. Paragraph 11 of this Schedule amends article 21A of the FSO so that it only applies to England. This article deals with the provision of information to residents of certain residential buildings. Under the Act similar requirements may be made, for example under section 49 (duty of accountable person to give information and documents to other persons).

612. Mae paragraff 12 o'r Atodlen hon yn diwygio erthygl 22A o'r GDT. Mae erthygl 22A yn ei gwneud yn ofynnol i berson cyfrifol ymadawol (e.e. rhywun sy'n gwerthu ei fuddiant mewn eiddo) ddarparu gwybodaeth benodol am ddiogelwch tân i'r person cyfrifol olynol. Mae'r diwygiad yn darparu bod hyn yn cynnwys gwybodaeth am hunaniaeth unrhyw bersonau atebol ar gyfer yr adeilad o dan y Ddeddf. Mae'r gofyniad hwn yn debygol o fod yn arbennig o berthnasol, er enghraifft, mewn adeiladau defnydd cymysg fel rhai â fflatiau uwchben siopau neu mangreoedd masnachol eraill.

Atodlen 4 – Gorchymyn Diogelwch Tân: Darpariaethau trosiannol a darpariaethau arbed

613. Mae'r Atodlen hon yn nodi trefniadau trosiannol mewn cysylltiad ag asesiadau risg tân a gynhelir o dan y GDT. Mae paragraff 1 yn gymwys i adeiladau rheoleiddiedig ac mae paragraff 2 yn gymwys i dai amlfeddiannaeth perthnasol; mae'r ddau yn gwneud darpariaethau tebyg fel a ganlyn.

614. Mae erthygl 9 o'r GDT yn ei gwneud yn ofynnol i'r person cyfrifol am fangre gynnal asesiad risg (tân), a'i gadw'n gyfredol. Mae hynny'n debyg iawn i'r gofynion yn adran 29 o'r Ddeddf i sicrhau bod asesiad risg tân yn cael ei wneud.

615. Cyn i'r Ddeddf ddod i rym, byddai'r rhan fwyaf o adeiladau, os nad pob adeilad a gwmpesir ganddi yn cael ei gwmpasu gan y GDT, felly dylent fod ag asesiadau risg ar waith. Er nad yw'r asesiadau risg hynny yn union yr un fath â'r rhai sy'n ofynnol gan y Ddeddf, dylent barhau i nodi risgiau tân sylweddol yn ddigonol. Er mwyn galluogi pontio o un gyfundrefn i'r llall, mae paragraffau 1(1) a (2) yn darparu bod asesiad risg o dan y GDT yn gwasanaethu fel asesiad risg tân o dan y Ddeddf pan fo:

- y prif berson atebol ar gyfer adeilad rheoleiddiedig a feddiennir hefyd, yn union cyn i adran 29 ddod i rym, yn berson cyfrifol o dan y GDT ar gyfer y "rhannau perthnasol" o'r adeilad rheoleiddiedig a feddiennir), a
- yr asesiad risg o dan y GDT wedi ei wneud neu ei adolygu yn ystod y chwe mis sy'n dod i ben gyda'r diwrnod y daeth adran 29 i rym.

616. "Rhannau perthnasol" adeilad rheoleiddiedig a feddiennir yw'r rhannau y mae person atebol yn gyfrifol amdanynt. Mae adran 29 yn ei gwneud yn ofynnol i'r prif berson atebol ar gyfer adeilad rheoleiddiedig a feddiennir sicrhau y caiff risgiau diogelwch tân sy'n ymwneud â'r rhannau hynny eu hasesu.

617. Pan fo asesiad risg GDT yn asesiad risg tân o dan y Ddeddf, mae paragraff 1(3) yn datgymhwyso'r gofyniad yn adran 31(1) (pan fo'n rhaid gwneud yr asesiad risg tân cyntaf ar gyfer adeilad rheoleiddiedig). Yn hytrach, rhaid i'r prif berson atebol sicrhau bod asesiad risg tân newydd o dan adran 29 yn cael ei wneud heb fod yn hwyrach na 12 mis ar ôl y diwrnod y gwnaethpwyd neu yr adolygwyd yr asesiad presennol (o dan y GDT). Fodd bynnag, mae is-adrannau (2) i (4) o adran 31 o'r Ddeddf yn gymwys i'r asesiad GDT e.e. os bodlonir unrhyw un neu ragor o'r meini prawf yn adran 31(2), yna rhaid gwneud asesiad risg pellach (o dan adran 29).

612. Paragraph 12 of this Schedule amends article 22A of the FSO. Article 22A requires an outgoing responsible person (e.g. someone who is selling their interest in a property) to provide specified information about fire safety to the incoming responsible person. The amendment provides that this includes information about the identity of any accountable persons for the building under the Act. This requirement is likely to be particularly relevant, for example, in mixed use buildings such as those with flats above shops or other commercial premises.

Schedule 4 - Fire Safety Order: Transitional and saving provisions

613. This Schedule sets out transitional arrangements in respect of fire risk assessments conducted under the FSO. Paragraph 1 applies to regulated buildings and paragraph 2 applies to relevant HMOs; both make similar provisions as follows.

614. Article 9 of the FSO requires the responsible person for premises to conduct a (fire) risk assessment, and to keep it up to date. That is broadly similar to the requirements in section 29 of the Act to ensure that a fire risk assessment is made.

615. Before the Act comes into force, most if not all buildings covered by it would be covered by the FSO, so should have risk assessments in place. While those risk assessments are not identical to those required by the Act, they should still adequately identify significant fire risks. To enable a transition from one regime to another, paragraphs 1(1) and (2) provide that a risk assessment under the FSO serves as a fire risk assessment under the Act where:

- the principal accountable person for an occupied regulated building was, immediately before section 29 came into force, also the responsible person under the FSO for premises that include all of the "relevant parts" of the occupied regulated building, and
- the risk assessment under the FSO was made or reviewed during the six months ending with the day on which section 29 came into force.

616. The "relevant parts" of an occupied regulated building are the parts for which an accountable person is responsible. Section 29 requires a principal accountable person for an occupied regulated building to ensure that fire safety risks relating to those parts are assessed.

617. Where a FSO risk assessment serves as a fire risk assessment under the Act, paragraph 1(3) disapplies the requirement in section 31(1) (when the first fire risk assessment for a regulated building must be made). Instead, the principal accountable person must ensure a new fire risk assessment under section 29 is made no later than 12 months after the day on which the existing assessment (under the FSO) was made or reviewed. However, subsections (2) to (4) of section 31 of the Act apply to the FSO assessment e.g. if any of the criteria in section 31(2) are met then a further risk assessment (under section 29) must be made.

618. Er enghraifft, a chan gymryd yn ganiataol at y dibenion hyn fod adran 29 ac 31 yn dod i rym ar 1 Ebrill 2027 (a bod y meini prawf ym mharagraff 1(1) wedi eu bodloni):

- byddai gan brif berson atebol ar gyfer adeilad rheoleiddiedig a feddiennir a oedd wedi cynnal asesiad risg ddiwethaf o dan y GDT ar 1 Chwefror 2027 (h.y. 2 fis cyn i adran 29 ddod i rym) hyd at 1 Chwefror 2028 i sicrhau bod asesiad risg tân o dan adran 29 yn cael ei wneud (yn ddarostyngedig i is-adran (2) i (4) o adran 31), ond
- byddai'n ofynnol i brif berson atebol ar gyfer adeilad rheoleiddiedig a feddiennir a oedd wedi cynnal asesiad risg ddiwethaf o dan y GDT ar 1 Awst 2026 (h.y. 8 mis cyn i adran 29 ddod i rym) sicrhau bod asesiad risg tân yn cael ei wneud heb fod yn hwyrach na 6 mis ar ôl i adran 31 ddod i rym, h.y. erbyn 1 Hydref 2027.

619. Mae paragraff 1(5) yn rhoi pŵer gwneud rheoliad i Weinidogion Cymru ddiwygio paragraff 1 o Atodlen 4 i amrywio'r dyddiad cau ar gyfer gwneud asesiadau risg tân ar gyfer adeilad rheoleiddiedig. Gallai hyn, er enghraifft, gael ei ddefnyddio i ddarparu ar gyfer dyddiadau cau gwahanol ar gyfer mathau gwahanol o adeiladau rheoleiddiedig.

620. Mae paragraff 2 yn gwneud darpariaeth gyfatebol mewn cysylltiad â thai amlfeddiannaeth perthnasol.

621. Mae paragraff 3 o'r Atodlen yn darparu nad yw datgymhwyso darpariaethau penodol y GDT (erthygl 7A newydd o'r GDT) yn gymwys mewn perthynas â hysbysiad addasu, hysbysiad gorfodi neu hysbysiadau gwahardd a gyflwynwyd cyn i baragraff 7 o Atodlen 3 ddod i rym (felly bod yr hysbysiadau hynny yn dal i gael effaith). Er enghraifft, a chan dybio bod paragraff 7 o Atodlen 3 i'r Ddeddf yn dod i rym ar 1 Ebrill 2027, pe bai awdurdod gorfodi wedi cyhoeddi hysbysiad gwahardd o dan y GDT ar floc o fflatiau ar 1 Mawrth 2027, byddai'r hysbysiad gwahardd hwnnw'n parhau i fod mewn grym ar ôl 1 Ebrill 2027, er na fyddai'r pwerau yn y GDT i gyhoeddi hysbysiad gwahardd yn berthnasol i'r adeilad rheoleiddiedig hwnnw mwyach.

COFNOD Y TRAFODION YN SENEDD CYMRU

622. Mae'r tabl a ganlyn yn nodi'r dyddiadau ar gyfer pob cyfnod o hynt y Ddeddf drwy'r Senedd. Gellir cael Cofnod y Trafodion a rhagor o wybodaeth am hynt y Ddeddf hon ar wefan y Senedd:
https://busnes.senedd.cymru/mgIssueHistoryHome.aspx?IId=46141

Cyfnod	**Dyddiad**
Cyflwynwyd	07 Gorffennaf 2025
Cyfnod 1 – Dadl	09 Rhagfyr 2025
Cyfnod 2 Pwyllgor Craffu – ystyried y gwelliannau	29 Ionawr 2026
Cyfnod 3 Cyfarfod Llawn – ystyried y gwelliannau	03 Mawrth 2026
Cyfnod 4 Cymeradwywyd gan y Senedd	10 Mawrth 2026
Y Cydsyniad Brenhinol	27 Ebrill 2026

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Argraffwyd a chyhoeddwyd yn y DU gan Y Llyfrfa Cyf dan awdurdod a goruchwyliaeth Saul Nassé, Rheolwr Llyfrfa Ei Fawrhydi ac Argraffydd y Brenin ar gyfer Cymru.

618. For example, and assuming for these purposes that sections 29 and 31 come into force on 1 April 2027 (and the criteria in paragraph 1(1) are met):
- a principal accountable person for an occupied regulated building who had last conducted a risk assessment under the FSO on 1 February 2027 (i.e. 2 months before section 29 comes into force) would have until 1 February 2028 to ensure a fire risk assessment under section 29 was made (subject to subsections (2) to (4) of section 31), but
- a principal accountable person for an occupied regulated building who had last conducted a risk assessment under the FSO on 1 August 2026 (i.e. 8 months before section 29 comes into force) would be required to ensure a fire risk assessment be made no later than 6 months after section 31 comes into force, i.e. by 1 October 2027.

619. Paragraph 1(5) confers a regulation making power on the Welsh Ministers to amend paragraph 1 of Schedule 4 to vary the deadline for making a fire risk assessments for a regulated building. This could, for example, be used to provide for different deadlines for different types of regulated building.

620. Paragraph 2 makes equivalent provision in respect of relevant HMOs.

621. Paragraph 3 of the Schedule provides that the disapplication of certain provisions of the FSO (new Article 7A of the FSO) does not apply in relation to an alteration notice, enforcement notice or prohibition notices served before paragraph 7 of Schedule 3 came into force (so those notices still have effect). For example, and assuming that paragraph 7 of Schedule 3 to the Act comes into force on 1 April 2027, if an enforcing authority had issued a prohibition notice under the FSO on a block of flats on 1 March 2027, that prohibition notice would continue in force after 1 April 2027, even though the powers in the FSO to issue a prohibition notice would no longer apply to those premises.

RECORD OF PROCEEDINGS IN SENEDD CYMRU

622. The following table sets out the dates for each stage of the Act's passage through the Senedd. The Record of Proceedings and further information on the passage of this Act can be found on the Senedd website at:
https://business.senedd.wales/mgIssueHistoryHome.aspx?IId=46141

Stage	**Date**
Introduced	07 July 2025
Stage 1 - Debate	09 December 2025
Stage 2 Scrutiny Committee – consideration of amendments	29 January 2026
Stage 3 Plenary - consideration of amendments	03 March 2026
Stage 4 Approved by the Senedd	10 March 2026
Royal Assent	27 April 2026

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