Argraffwyd yr Offeryn Statudol hwn yn lle'r OS sy'n dwyn yr un rhif ac fe'i dyroddir yn rhad ac am ddim i bawb y gwyddys iddynt gael yr Offeryn Statudol hwnnw.

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OFFERYNNAU STATUDOL CYMRU

WELSH STATUTORY INSTRUMENTS

2014 Rhif 481 (Cy. 58)

2014 No. 481 (W. 58)

LLYWODRAETH LEOL, CYMRU

LOCAL GOVERNMENT, WALES

Rheoliadau Awdurdodau Lleol (Cyllid Cyfalaf a Chyfrifyddu) (Cymru) (Diwygio) 2014

The Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2014

NODYN ESBONIADOL

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

Cyflwynodd Rhan 1 o Ddeddf Llywodraeth Leol 2003 ("Deddf 2003") fframwaith cyfreithiol y caiff llywodraeth leol gyflawni gwariant cyfalaf ynddo. Yng Nghymru, caiff Gweinidogion Cymru reoleiddio'r gweithgarwch hwnnw drwy reoliadau. Cafodd darpariaeth o'r fath ei gwneud gan Reoliadau Awdurdodau Lleol (Cyllid Cyfalaf a Chyfrifyddu) (Cymru) 2003 (O.S. 2003/3239) ("Rheoliadau 2003") sydd wedi eu diwygio gan Reoliadau Awdurdodau Lleol (Cyllid Cyfalaf a Chyfrifyddu) (Cymru) (Diwygio) 2007 (O.S. 2007/1051 (Cy.108)) ("Rheoliadau 2007") a Rheoliadau Awdurdodau Lleol (Cyllid Cyfalaf a Chyfrifyddu) (Cymru) (Diwygio) 2010 (O.S. 2010/685 (Cy.67)) ("Rheoliadau 2010").

Mae'r Rheoliadau hyn yn diwygio ymhellach Reoliadau 2003 (fel y'u diwygiwyd) ac maent yn gymwys i awdurdodau lleol yng Nghymru.

Mae rheoliad 3 yn diwygio rheoliad 18 o Reoliadau 2003 i ganiatáu i'r awdurdodau lleol ddefnyddio derbyniadau cyfalaf a gafwyd ar neu ar ôl 1 Ebrill 2013 i wneud ôl-daliadau mewn perthynas â thâl cyfartal. At ddibenion y Rheoliadau hyn a Rheoliadau 2003, tâl cyfartal yw swm y tâl y mae gan weithiwr cyflogedig i awdurdod lleol hawl i'w gael o'i gymharu â gweithiwr cyflogedig arall yn yr un sefydliad sy'n gwneud gwaith cyfartal, am gyfnodau sy'n ymwneud yn gyfan gwbl â'r cyfnod cyn 1 Hydref 2010, yn unol ag adran 1 o Ddeddf Tâl Cyfartal 1970 (p.41).

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 1 of the Local Government Act 2003 ("the 2003 Act") introduced a legal framework within which local government may undertake capital expenditure. In Wales, the Welsh Ministers may regulate that activity by regulations. Such provision was made by the Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003 (S.I. 2003/3239) ("the 2003 Regulations") which have been amended by the Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2007 (S.I. 2007/1051 (W.108)) ("the 2007 Regulations") and the Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2010 (S.I. 2010/685 (W.67) ("the 2010 Regulations").

These Regulations further amend the 2003 Regulations (as amended) and apply in relation to local authorities in Wales.

Regulation 3 amends regulation 18 of the 2003 Regulations to permit local authorities to use capital receipts received on or after 1 April 2013 to make back payments in respect of equal pay. For the purposes of these Regulations and the 2003 Regulations, equal pay is the amount of pay which an employee of a local authority is entitled to in comparison to another employee in the same establishment doing equal work, for periods wholly relating to before 1 October 2010, in accordance with section 1 of the Equal Pay Act 1970 (c.41).

Mewnosododd Rheoliadau 2007 reoliad 24A yn Rheoliadau 2003. Cafodd rheoliad 24A ei ddiwygio gan Reoliadau 2010. Darparodd Rheoliadau 2010 fod effaith rheoliad 24A yn dod i ben ar 1 Ebrill 2013. Mae rheoliad 4 o'r Rheoliadau hyn yn mewnosod rheoliad 24A newydd yn Rheoliadau 2003, y bydd ei effaith yn dod i ben ar 1 Ebrill 2018. Mae'r rheoliad 24A newydd yn darparu nad oes angen i awdurdod lleol godi swm ar gyfrif refeniw mewn perthynas â thaliad sydd i'w wneud i swyddog neu weithiwr cyflogedig am waith a wnaed yn y gorffennol ac y cafodd y swyddog neu'r gweithiwr cyflogedig dâl anghyfartal amdano nes bod rhaid i'r awdurdod dalu'r swm hwnnw i'r swyddog neu'r gweithiwr cyflogedig. Mae hefyd yn darparu y bydd mantais rheoliad 24A yn gymwys hyd at 1 Ebrill 2023 pan nodir rhwymedigaeth ar neu cyn 1 Ebrill 2018.

The 2007 Regulations inserted regulation 24A into the 2003 Regulations. Regulation 24A was amended by the 2010 Regulations. The 2010 Regulations provided that regulation 24A ceased to have effect on 1 April 2013. Regulation 4 of these Regulations inserts a new regulation 24A into the 2003 Regulations, which will cease to have effect on 1 April 2018. The new regulation 24A provides that a local authority need not charge to a revenue account an amount in respect of a payment to be made to an officer or employee for work done in the past for which the officer or employee received unequal pay until the authority has to pay that amount to the officer or employee. It also provides that where a liability is identified on or before 1 April 2018, the benefit of regulation 24A will apply until 1 April 2023.

Ystyriwyd Cod Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol ar gyfer Is-ddeddfwriaeth mewn perthynas â'r Rheoliadau hyn. O ganlyniad, mae asesiad effaith rheoleiddiol wedi ei baratoi ynglŷn â'r costau a'r manteision sy'n debygol o ddeillio o'r Rheoliadau hyn. Gellir cael copi oddi wrth Adran Cyllid Llywodraeth Leol, Parc Cathays, Caerdydd, CF10 3NQ (ffôn 02920825111).

The Welsh Ministers' Regulatory Impact Assessment Code for Subordinate Legislation has been considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of these Regulations. A copy can be obtained from the Local Government Finance Division, Cathays Park, Cardiff, CF10 3NQ (telephone 02920825111).

Mae Asesiad o'r Effaith ar Gydraddoldeb wedi ei baratoi yn unol â rheoliad 8 o Reoliadau Deddf Cydraddoldeb 2010 (Dyletswyddau Statudol) (Cymru) 2011 (O.S. 2011/1064) mewn perthynas â'r Rheoliadau hyn. Gellir cael copi oddi wrth Adran Cyllid Llywodraeth Leol, Parc Cathays, Caerdydd, CF10 3NQ (ffôn 02920825111).

An Equality Impact Assessment has been prepared in accordance with regulation 8 of the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 (S.I. 2011/1064) in relation these Regulations. A copy can be obtained from the Local Government Finance Division, Cathays Park, Cardiff, CF10 3NQ (telephone 02920825111).

OFFERYNNAU STATUDOL CYMRU

2014 Rhif 481 (Cy. 58)

LLYWODRAETH LEOL, CYMRU

Rheoliadau Awdurdodau Lleol (Cyllid Cyfalaf a Chyfrifyddu) (Cymru) (Diwygio) 2014

Gwnaed	*27 Chwefror 2014*
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru	*5 Mawrth 2014*
Yn dod i rym	*31 Mawrth 2014*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir gan adrannau 11(1), 21(1), 24 a 123(1) o Ddeddf Llywodraeth Leol 2003(**1**), yn gwneud y Rheoliadau a ganlyn.

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Awdurdodau Lleol (Cyllid Cyfalaf a Chyfrifyddu) (Cymru) (Diwygio) 2014.

(2) Daw'r Rheoliadau hyn i rym ar 31 Mawrth 2014.

(3) Mae'r Rheoliadau hyn yn gymwys o ran awdurdodau lleol yng Nghymru.

(**1**) 2003 p.26. Diwygiwyd adran 24 gan adran 238(3) o Ddeddf Llywodraeth Leol a Chynnwys y Cyhoedd mewn Iechyd 2007 (p.28). Mae pwerau o dan adrannau 11(1) a 21(1) o Ddeddf Llywodraeth Leol 2003 wedi eu breinio bellach yng Ngweinidogion Cymru i'r graddau y maent yn arferadwy o ran Cymru yn rhinwedd adran 24(1) o Ddeddf Llywodraeth Leol 2003 fel y'i diwygiwyd. Fe'u breiniwyd gynt yng Nghynulliad Cenedlaethol Cymru gan adran 24(1) o Ddeddf Llywodraeth Leol 2003. Yn rhinwedd paragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32), fe'u trosglwyddwyd i Weinidogion Cymru.

WELSH STATUTORY INSTRUMENTS

2014 No. 481 (W. 58)

LOCAL GOVERNMENT, WALES

The Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2014

Made	*27 February 2014*
Laid before the National Assembly for Wales	*5 March 2014*
Coming into force	*31 March 2014*

The Welsh Ministers, in exercise of the powers conferred by sections 11(1), 21(1), 24 and 123(1) of the Local Government Act 2003(**1**), make the following Regulations.

Title, commencement, and application

1.—(1) The title of these Regulations is the Local Authorities (Capital Finance and Accounting) (Wales) (Amendment) Regulations 2014.

(2) These Regulations come into force on 31 March 2014.

(3) These Regulations apply in relation to local authorities in Wales.

(**1**) 2003 c.26. Section 24 was amended by section 238(3) of the Local Government and Public Involvement in Health Act 2007 (c.28). Powers under sections 11(1) and 21(1) of the Local Government Act 2003 are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales by virtue of section 24(1) of Local Government Act 2003 as amended. They were previously vested in the National Assembly for Wales by section 24(1) of the Local Government Act 2003. By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32), they were transferred to the Welsh Ministers.

Diwygio Rheoliadau Awdurdodau Lleol (Cyllid Cyfalaf a Chyfrifyddu) (Cymru) 2003

2. Mae Rheoliadau Awdurdodau Lleol (Cyllid Cyfalaf a Chyfrifyddu) (Cymru) 2003(**1**) wedi eu diwygio fel a ganlyn.

Defnyddio derbyniadau cyfalaf

3. Yn rheoliad 18(2), ar ddiwedd is-baragraff (d) yn lle "." rhodder—

"; or

(e) where receipts are received on or after 1 April 2013, to make a back payment (within the meaning of regulation 24A(2) in respect of unequal pay where the liability arises in the circumstances specified in regulation 24A(3).".

Ôl-daliad yn sgil tâl anghyfartal

4. Yn lle rheoliad 24A(**2**), rhodder—

"Back Payment following unequal pay

24A.—(1) For the purposes of this regulation—

(a) a reference to an employee of a local authority includes a reference to a former employee, an officer or a former officer of the local authority;

(b) a reference to the contract under which an employee was or is employed includes a reference to the terms of appointment under which an officer held or holds office; and

(c) an employee of a local authority received unequal pay when the amount of pay which the employee received from the local authority for work done by the employee during a particular period is less than the appropriate amount of pay for that work done during that period.

(2) In this regulation—

"appropriate amount of pay", in relation to an employee of the local authority, means the amount of pay to which the employee is entitled in accordance with any equality clause deemed to be included, by virtue of

(**1**) O.S. 2003/3239 (Cy.319) fel y'i diwygiwyd gan O.S. 2004/1010 (Cy.107), 2006/944 (Cy.93), 2006/2914, 2007/1051 (Cy.108), 2008/588 (Cy.59), 2009/560 (Cy.52), 2010/685 (Cy.67).

(**2**) A fewnosodwyd gan O.S. 2010/685 (Cy.67).

Amendment to the Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003

2. The Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003(**1**) are amended as follows.

Use of capital receipts

3. In regulation 18(2) at the end of sub-paragraph (d), for "." substitute—

"; or

(e) where receipts are received on or after 1 April 2013, to make a back payment (within the meaning of regulation 24A(2) in respect of unequal pay where the liability arises in the circumstances specified in regulation 24A(3).".

Back Payment following unequal pay

4. For regulation 24A(**2**), substitute—

"Back Payment following unequal pay

24A.—(1) For the purposes of this regulation—

(a) a reference to an employee of a local authority includes a reference to a former employee, an officer or a former officer of the local authority;

(b) a reference to the contract under which an employee was or is employed includes a reference to the terms of appointment under which an officer held or holds office; and

(c) an employee of a local authority received unequal pay when the amount of pay which the employee received from the local authority for work done by the employee during a particular period is less than the appropriate amount of pay for that work done during that period.

(2) In this regulation—

"appropriate amount of pay", in relation to an employee of the local authority, means the amount of pay to which the employee is entitled in accordance with any equality clause deemed to be included, by virtue of

(**1**) S.I. 2003/3239 (W.319) as amended by S.I. 2004/1010 (W.107), 2006/944 (W.93), 2006/2914, 2007/1051 (W.108), 2008/588 (W.59), 2009/560 (W.52), 2010/685 (W.67).

(**2**) Inserted by S.I. 2010/685 (W.67).

section 1(1) of the Equal Pay Act 1970(**1**) in the contract under which the employee was or is employed;

"back payment" means a payment of arrears of remuneration made by a local authority for work—

(a) done by an employee of the local authority;

(b) in respect of which the employee received unequal pay; and

(c) done prior to when the employee first receives any increase in pay as a result of receiving that unequal pay,

which is paid to the employee, or part of which is paid to the employee ("the net payment") and part of which is paid to another person on behalf of the employee ("relevant deductions") because the employee received unequal pay for that work; and

"social security costs" means any contributions by a local authority to any state social security or pension scheme, fund or arrangement.

(3) Paragraph (4) applies where a local authority—

(a) is required by an employment tribunal or a court to make a back payment;

(b) considers that it is probable that:

(i) an employment tribunal or a court will require it to make a back payment; and

(ii) is able to make a reasonable estimate of the amount of such back payment;

(c) has reached an agreement or otherwise determined to make a back payment; or

(d) considers that it is probable that:

(i) it will reach an agreement or otherwise determine to make a back payment; and

(ii) is able to make a reasonable estimate of the amount of such back payment.

(4) Where this paragraph applies, on or after 31 March 2014 the local authority need not charge to a revenue account an amount in respect of—

(**1**) 1970 p.41. Diddymwyd y Ddeddf gan adran 211(2) o Ddeddf Cydraddoldeb 2010 ac Atodlen 27 iddi, fel y'i diwygiwyd gan O.S. 2010/2279. Gweler O.S. 2010/2317, erthygl 15 i weld darpariaethau arbed.

section 1(1) of the Equal Pay Act 1970(**1**) in the contract under which the employee was or is employed;

"back payment" means a payment of arrears of remuneration made by a local authority for work—

(a) done by an employee of the local authority;

(b) in respect of which the employee received unequal pay; and

(c) done prior to when the employee first receives any increase in pay as a result of receiving that unequal pay,

which is paid to the employee, or part of which is paid to the employee ("the net payment") and part of which is paid to another person on behalf of the employee ("relevant deductions") because the employee received unequal pay for that work; and

"social security costs" means any contributions by a local authority to any state social security or pension scheme, fund or arrangement.

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(c) has reached an agreement or otherwise determined to make a back payment; or

(d) considers that it is probable that:

(i) it will reach an agreement or otherwise determine to make a back payment; and

(ii) is able to make a reasonable estimate of the amount of such back payment.

(4) Where this paragraph applies, on or after 31 March 2014 the local authority need not charge to a revenue account an amount in respect of—

(**1**) 1970 c.41. The Act was repealed by section 211(2) and Schedule 27 of the Equality Act 2010, as amended by S.I. 2010/2279. See S.I. 2010/2317, article 15 for savings provisions.

(a) the back payment (including any relevant deductions); or

(b) social security costs or other costs incurred by the local authority in relation to that back payment,

until the date on which the local authority must pay that back payment, or the net payment part of that back payment, to the employee either as required by an employment tribunal or court or, in any other case, in accordance with the agreement or determination (as the case may be) made by the local authority in relation to the employee.

(5) Subject to paragraph (6), this regulation ceases to have effect on 1 April 2018.

(6) Where paragraph (4) applies to an appropriate amount of pay, it continues to apply until the date on which the payment is actually made, whether or not the date is on or after 1 April 2018, but in any event, no later than 1 April 2023.".

(a) the back payment (including any relevant deductions); or

(b) social security costs or other costs incurred by the local authority in relation to that back payment,

until the date on which the local authority must pay that back payment, or the net payment part of that back payment, to the employee either as required by an employment tribunal or court or, in any other case, in accordance with the agreement or determination (as the case may be) made by the local authority in relation to the employee.

(5) Subject to paragraph (6), this regulation ceases to have effect on 1 April 2018.

(6) Where paragraph (4) applies to an appropriate amount of pay, it continues to apply until the date on which the payment is actually made, whether or not the date is on or after 1 April 2018, but in any event, no later than 1 April 2023.".

Lesley Griffiths

Y Gweinidog Llywodraeth Leol a Busnes y Llywodraeth, un o Weinidogion Cymru.

27 Chwefror 2014

Minister for Local Government and Government Business, one of the Welsh Ministers.

27 February 2014

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Rheoliadau Awdurdodau Lleol (Cyllid Cyfalaf a Chyfrifyddu) (Cymru) (Diwygio) 2014

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