OFFERYNNAU STATUDOL CYMRU

2011 Rhif 1715 (Cy.194)

ADEILADU, CYMRU

Rheoliadau Rheoliadau Cynllun Contractau Adeiladu (Cymru a Lloegr) 1998 (Diwygio) (Cymru) 2011

Gwnaed - - - - 12 Gorffennaf 2011

Yn dod i rym - - 1 Hydref 2011

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adrannau 108(6), 114(1) a 146(1) a (2) o Ddeddf Grantiau Tai, Adeiladu ac Adfywio 1996(**1**) ("y Ddeddf") ac sydd bellach yn arferadwy ganddynt hwy(**2**) yn gwneud y Rheoliadau a ganlyn.

Cyn gwneud y Rheoliadau hyn, mae Gweinidogion Cymru wedi ymgynghori â'r personau hynny y maent yn credu eu bod yn addas yn unol â gofynion adran 114(2) o'r Ddeddf.

Yn unol ag adran 114(5) o'r Ddeddf(**3**), cafodd drafft o'r Rheoliadau hyn ei osod gerbron Cynulliad Cenedlaethol Cymru a'i gymeradwyo drwy gynnig gan Gynulliad Cenedlaethol Cymru.

Enwi, cymhwyso, cychwyn a dehongli

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Cynllun Contractau Adeiladu (Cymru a Lloegr) 1998 (Diwygio) (Cymru) 2011. Deuant i rym ar 1 Hydref 2011.

(2) Mae'r Rheoliadau hyn yn gymwys i gontractau adeiladu a wneir ar ôl i'r Rheoliadau hyn ddod i rym.

(3) Mae'r Rheoliadau hyn yn gymwys i gontractau adeiladu i'r graddau y mae'r rheiny'n ymwneud â gwneud gwaith adeiladu yng Nghymru.

(4) Yn y Rheoliadau hyn—

ystyr "y Ddeddf" ("*the Act*") yw Deddf Grantiau Tai, Adeiladu ac Adfywio 1996;

(**1**) 1996 p.53.

(**2**) Trosglwyddwyd swyddogaethau'r Gweinidog a'r Ysgrifennydd Gwladol, i'r graddau y maent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999, O.S. 1999/672. Trosglwyddwyd y swyddogaethau i Weinidogion Cymru gan baragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).

(**3**) Mae adran 114(5) yn darparu na chaiff yr Ysgrifennydd Gwladol wneud offeryn statudol sy'n cynnwys rheoliadau oni bai bod drafft o'r rheoliadau wedi'i osod gerbron dau Dŷ'r Senedd ac wedi'i gymeradwyo drwy gynnig gan y ddau. Yn rhinwedd paragraff 34(2) o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32), mae'r ddarpariaeth yn gymwys i Weinidogion Cymru wrth iddynt arfer y swyddogaeth o wneud offeryn statudol sy'n cynnwys rheoliadau o'r fath fel pe bai unrhyw gyfeiriad at y naill Dŷ Seneddol neu'r llall yn gyfeiriad at Gynulliad Cenedlaethol Cymru.

ystyr "y Prif Reoliadau" ("*the Principal Regulations*") yw Rheoliadau Cynllun Contractau Adeiladu (Cymru a Lloegr) 1998(**4**);

ystyr "yr Atodlen" ("*the Schedule*") yw atodlen y Prif Reoliadau.

Diwygio rheoliad 3 o'r Prif Reoliadau

2. Ym mharagraff (b) o reoliad 3 o'r Prif Reoliadau, ar ôl "section 110", rhodder "or by section 110A"(**5**).

Diwygio Rhan 1 (Dyfarnu) o'r Atodlen

3.—(1) Diwygir Rhan 1 (Dyfarnu) o'r Atodlen fel a ganlyn.

(2) Ym mharagraff 1(1), cyn "of his intention", rhodder "at any time".

(3) Ar ôl paragraff 7(3) rhodder—

"(4) Upon receipt of the referral notice, the adjudicator must inform every party to the dispute of the date that it was received".

(4) Ym mharagraff 9(4), yn lle'r ail frawddeg rhodder—

"Subject to any contractual provision pursuant to section 108A(2) of the Act, the adjudicator may determine how the payment is to be apportioned and the parties are jointly and severally liable for any sum which remains outstanding following the making of any such determination"(**6**).

(5) Ym mharagraff 11(1), yn lle'r drydedd frawddeg rhodder—

"Subject to any contractual provision pursuant to section 108A(2) of the Act, the adjudicator may determine how the payment is to be apportioned and the parties are jointly and severally liable for any sum which remains outstanding following the making of any such determination".

(6) Ym mharagraff 15(b) yn lle "draw such inferences from that failure to comply as circumstances may, in the adjudicator's opinion, be justified" rhodder "draw such inferences from that failure to comply as the circumstances may, in the adjudicator's opinion, justify".

(7) Ym mharagraff 19(1)—

(a) ym mharagraffau (a) a (b), yn lle "the date", rhodder "receipt"; a

(b) ym mharagraff (c), rhodder "receipt of" ar ôl y gair "after".

(8) Ym mharagraff 20(b), yn lle "section 111(4)", rhodder "section 111(9)"(**7**).

(9) Ym mharagraff 21, hepgorer "in accordance with this paragraph".

(10) Ar ôl paragraff 22 rhodder—

"**22A.**—(1) The adjudicator may on the adjudicator's own initiative or on the application of a party correct the decision so as to remove a clerical or typographical error arising by accident or omission.

(2) Any correction of a decision must be made within five days of the delivery of the decision to the parties.

(**4**) O.S. 1998/649.
(**5**) Mewnosodwyd adran 110A gan adran 143(3) o Ddeddf Democratiaeth Leol, Datblygu Economaidd ac Adeiladu 2009 (p.20).
(**6**) Mewnosodwyd adran 108A gan adran 141 o Ddeddf Democratiaeth Leol, Datblygu Economaidd ac Adeiladu 2009.
(**7**) Mewnosodwyd adran 111 gan adran 144 o Ddeddf Democratiaeth Leol, Datblygu Economaidd ac Adeiladu 2009.

(3) As soon as possible after correcting a decision in accordance with this paragraph, the adjudicator must deliver a copy of the corrected decision to each of the parties to the contract.

(4) Any correction of a decision forms part of the decision."

(11) Hepgorer paragraff 23(1).

(12) Hepgorer paragraff 24.

(13) Ym mharagraff 25, yn lle'r ail frawddeg rhodder—

"Subject to any contractual provision pursuant to section 108A(2) of the Act, the adjudicator may determine how the payment is to be apportioned and the parties are jointly and severally liable for any sum which remains outstanding following the making of any such determination".

Diwygio Rhan 2 (Talu) o'r Atodlen

4.—(1) Diwygir Rhan 2 (Talu) o'r Atodlen fel a ganlyn.

(2) Ym mharagraff 5 hepgorer "the expiry of" a rhodder "the expiry of" cyn y geiriau "30 days following completion of the work".

(3) Yn lle paragraff 9, rhodder—

"**Payment notice**

9.—(1) Where the parties to a construction contract fail, in relation to a payment provided for by the contract, to provide for the giving of a notice pursuant to section 110A(1) of the Act, the provisions of this paragraph apply.

(2) The payer must, not later than five days after the payment due date, give a notice to the payee complying with sub-paragraph (3).

(3) A notice complies with this sub-paragraph if it specifies the sum that the payer considers to be due or to have been due at the payment due date and the basis on which that sum is calculated.

(4) For the purposes of this paragraph, it is immaterial that the sum referred to in sub-paragraph (3) may be zero.

(5) A payment provided for by the contract includes any payment of the kind mentioned in paragraph 2, 5, 6, or 7 above."

(4) Yn lle paragraff 10, rhodder—

"**Notice of intention to pay less than the notified sum**

10. Where, in relation to a notice of intention to pay less than the notified sum given in accordance with section 111(3) of the Act, the parties fail to agree the prescribed period as provided for in section 111(5), that notice must be given not later than seven days before the final date for payment determined either in accordance with the construction contract, or where no such provision is made in the contract, in accordance with paragraph 8 above."