



Mesur Diogelwch Tân Domestig (Cymru) 2011

2011 mccc 3

Nodiadau Esboniadol

Domestic Fire Safety (Wales) Measure 2011

2011 nawm 3

Explanatory Notes

£5.75

Mae'r nodiadau hyn yn cyfeirio at Fesur Diogelwch Tân Domestig (Cymru) 2011 (mccc 3) a gymeradwywyd gan Ei Mawrhydi yn y Cyfrin Gyngor ar 7 Ebrill 2011

MESUR DIOGELWCH TÂN DOMESTIG (CYMRU) 2011

NODIADAU ESBONIADOL

Rhagymadrodd

1. Mae'r Nodiadau Esboniadol hyn yn ymwneud â Mesur Diogelwch Tân Domestig (Cymru) 2011 a gafodd ei basio gan Gynulliad Cenedlaethol Cymru ar 16 Chwefror 2011 a'i gymeradwyo gan Ei Mawrhydi yn y Cyfrin Gyngor ar 7 Ebrill 2011. Cawsant eu paratoi gan Ann Jones AC, yr Aelod a oedd yn gyfrifol am y Mesur, er mwyn iddynt fod o gymorth wrth ddeall y Mesur. Nid ydynt yn ffurfio rhan o'r Mesur ac ni chawsant eu hardystio gan Gynulliad Cenedlaethol Cymru.
2. Mae angen darllen y Nodiadau ar y cyd â'r Mesur. Nid ydynt, ac ni fwriedir iddynt fod yn ddisgrifiad cynhwysfawr o'r Mesur. Gan hynny, os yw'n ymddangos nad oes angen unrhyw esboniad neu unrhyw sylwadau ar adran neu ran o adran, nis rhoddir.

ESBONIAD O'R ADRANNAU

Adran 1 - Dyletswydd i ddarparu systemau llethu tân awtomatig

3. O ran gwaith i godi adeilad i'w ddefnyddio'n breswylfa, gwaith i adeilad presennol neu ran ohono i'w drosti i greu un breswylfa neu fwy, neu waith i breswylfeydd presennol i'w his-rannu neu eu cyfuno, ceir dyletswydd i ddarparu ym mhob breswylfa system llethu tân awtomatig sy'n

These notes refer to the Domestic Fire Safety (Wales) Measure 2011 (nawm 3) which received approval by Her Majesty in Council on 7 April 2011

DOMESTIC FIRE SAFETY (WALES) MEASURE 2011

EXPLANATORY NOTES

Introduction

1. These explanatory notes are for the Domestic Fire Safety (Wales) Measure 2011 which was passed by the National Assembly for Wales on 16 February 2011 and approved by Her Majesty in Council on 7 April 2011. They have been prepared by Ann Jones AM, Member in charge of the Measure, to assist understanding of the Measure. They do not form part of the Measure and have not been endorsed by the National Assembly for Wales.
2. The notes need to be read in conjunction with the Measure. They are not, and are not meant to be, a comprehensive description of the Measure. So, where a section or part of a section does not seem to require any explanation or comment, none is given.

COMMENTARY ON SECTIONS

Section 1- Duty to provide fire suppression system

3. In respect of building work comprising the construction of a building for use as a residence, converting a building or part thereof for use as one or more residences, subdividing one or more existing residences to create one or more new residences or amalgamating existing residences so as to

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gweithio'n effeithiol ac sy'n cydymffurfio ag unrhyw ofynion y caiff Gweinidogion Cymru eu rhagnodi mewn rheoliadau.

4. Ni fydd y ddyletswydd hon yn gymwys i waith adeiladu a wneir er mwyn cyflawni un o swyddogaethau Gweinidog y Goron, na phan fydd rheoliadau adeiladu yn gosod gofynion sy'n ymwneud â darparu systemau llethu tân, na phan fyddant yn gymwys felly ond am gyfarwyddyd o dan adran 8 o Ddeddf Adeiladu 1984 i hepgor y gofynion hynny.

Adran 2 - Gorfodi

5. Ac eithrio pan fydd gwaith adeiladu yn cael ei oruchwylio gan arolygydd cymeradwy, awdurdodau lleol sydd i orfodi'r Mesur hwn.

Adran 3 - Darparu gwybodaeth

6. Yn unol â'r rheoliadau adeiladu, pan fydd hysbysiad yn cael ei roi i awdurdod lleol o'r bwriad i wneud gwaith adeiladu neu pan fydd cynlluniau llawn o waith o'r fath yn cael eu hadneuo gydag awdurdod lleol, rhaid i wybodaeth fynd gyda'r hysbysiad neu'r cynlluniau er mwyn dangos bod modd i'r gwaith fodloni'r gofynion a ragnodir yn y rheoliadau a wneir o dan adran 1. Rhaid darparu'r wybodaeth ar y fath ffurf a all fod wedi'i rhagnodi mewn rheoliadau a wneir gan Weinidogion Cymru.
7. Pan fydd awdurdod lleol o'r farn nad yw'r wybodaeth a ddarparwyd yn gyflawn neu nad yw'n dangos yn ddigonol y bydd y gwaith, unwaith y bydd wedi'i orffen, yn gallu cydymffurfio â'r gofynion a nodwyd yn adran 1(4), caiff roi hysbysiad ysgrifenedig o'r farn honno i'r person a roddodd yr hysbysiad neu a adneuoedd y cynlluniau, a rhaid rhoi'r cyfryw hysbysiad o fewn y "cyfnod perthnasol", sef pum wythnos (neu hyd at ddau fis, os cytunwyd ar hynny) o ddyddiad cael yr wybodaeth. Caiff person sy'n cael ei hysbysu felly ddiwygio'r wybodaeth a roddwyd a chyflwyno'r wybodaeth wedi'i diwygio i'r awdurdod lleol, a bydd y cyfnod perthnasol yn dechrau adeg cael yr wybodaeth wedi'i diwygio. Caniateir cyfeirio unrhyw gwestiwn ynghylch cywirdeb y farn honno at Weinidogion Cymru i'w benderfynu, a rhaid i'r cyfryw ffi ag a ragnodir mewn rheoliadau fynd gydag ef.

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create a new residence or residences, there is a duty to provide each residence with an effectively operating fire suppression system which complies with such requirements as may be prescribed by Welsh Ministers in regulations.

4. This duty will not apply to building work carried out for the purpose of discharging any function of a Minister of the Crown or where building regulations impose requirements relating to the provision of fire suppression systems or would so apply but for a direction under section 8 of the Building Act dispensing with such requirements.

Section 2 - Enforcement

5. Save where building work is supervised by authorised inspectors, this Measure is to be enforced by local authorities.

Section 3 - Provision of information

6. Where, in accordance with building regulations, notice is given to a local authority of a proposal to carry out building work or full plans of such work are deposited with a local authority, such notice or plans must be accompanied by information provided for the purpose of demonstrating that the building work is capable of satisfying the requirements prescribed in regulations made under section 1. Information is to be provided in such form as may be prescribed in regulations made by Welsh Ministers.
7. Where a local authority is of the opinion that the information provided is incomplete or does not demonstrate that the work, when completed, is capable of complying with the requirements of section, it may give written notice of its opinion to the person giving notice or depositing plans and such notice must be given within the "relevant period" being five weeks (or if agreed up to two months), from receipt of the information. A person so notified may revise the information provided and submit the revised information to the local authority whereupon the relevant period begins to run on receipt of the revised information. Any question arising as to the correctness of the opinion may be referred to the Welsh Ministers for determination and must be accompanied by such fee as may be prescribed in regulations.

Mae'r nodiadau hyn yn cyfeirio at Fesur Diogelwch Tân Domestig (Cymru) 2011 (mccc 3) a gymeradwywyd gan Ei Mawrhydi yn y Cyfrin Gyngor ar 7 Ebrill 2011

Adran 4 - Dilysu a chyflwyno dogfennau

8. Mae darpariaethau adran 93 (dilysu dogfennau), 94 (cyflwyno dogfennau), a 94A (cyflwyno dogfennau'n electronig) o Ddeddf Adeiladu 1984 yn gymwys mewn perthynas â dogfennau yr awdurdodir neu y gorfodir eu rhoi, eu gwneud, eu cyhoeddi neu eu cyflwyno o dan y Mesur.

Adran 5 - Erlyn am dramgwyddau

9. Dim ond awdurdodau lleol neu Weinidogion Cymru sy'n cael cychwyn achos llys o dan y Mesur.

Adran 6 - Dehongli

10. Mae adran 6 yn dehongli'r ymadroddion a ddefnyddir yn y Mesur. Mae'r adran hefyd yn darparu y caiff y diffiniad o "preswylfa" ei ddiwygio drwy orchymyn a wneir gan Weinidogion Cymru os bydd diwygiad o'r fath yn ychwanegu dosbarth o fangreoedd preswyl neu'n diwygio'r disgrifiad o ddosbarth presennol o fangreoedd preswyl.

Adran 7 - Darpariaethau trosiannol a chanlyniadol

11. Rhoddir y pŵer i Weinidogion Cymru, drwy orchymyn, wneud darpariaethau trosiannol, darfodol, canlyniadol, arbed, cysylltiedig, atodol ac unrhyw ddarpariaeth arall, gan gynnwys darpariaeth i ddiwygio, diddymu neu addasu deddfiad fel arall, fel sy'n angenrheidiol neu'n briodol mewn cysylltiad â'r Mesur neu i roi llwyr effaith iddo.

Adran 8 - Rheoliadau a gorchmynion

12. Mae'r adran hon yn darparu bod yn rhaid gwneud rheoliadau neu orchmynion o dan y Mesur drwy offeryn statudol, ac mae'n darparu'r weithdrefn sydd i'w dilyn, gan gynnwys unrhyw ofyniad i ymgynghori, cyn gwneud rheoliadau.

Adran 9 - Teitl byr a chychwyn

13. Mae adran 9 yn nodi teitl byr y Mesur ynghyd â'r darpariaethau cychwyn.

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Section 4 – Authentication and service of documents

8. The provisions of sections 93 (authentication of documents), 94 (service of documents) and section 94A (electronic service of documents) of the Building Act 1984 are to apply in relation to documents authorised or required to be given, made, issued or served under the Measure.

Section 5 – Prosecution of offences

9. Proceedings under the Measure may only be instituted by a local authority or the Welsh Ministers.

Section 6 – Interpretation

10. Section 6 interprets expressions used in the Measure. The section also provides that the definition of “residence” may be amended by order made by the Welsh Ministers where such amendment relates to the adding a class of residential premises or amending the description of an existing class of residential premises.

Section 7 – Transitional and consequential provisions

11. A power is conferred on Welsh Ministers to make, by order, transitional, transitory, consequential, saving, incidental, supplementary and other provision, including provision that amends, repeals or otherwise modifies an enactment, as necessary or appropriate in connection with or to give full effect to the Measure.

Section 8 – Regulations and orders

12. This section provides that regulations or orders made under the Measure are to be made by statutory instrument and provides for the procedure to be followed including any requirement to consult prior to the making of regulations.

Section 9 – Short title and commencement

13. Section 9 sets out the short title of the Measure together with commencement provisions.

Atodlen 1 - Gorfodi

14. Ac eithrio fel y darperir gan Atodlen 2, awdurdodau lleol sydd i orfodi'r Mesur hwn.
15. Bydd person sy'n gwneud gwaith adeiladu nad yw'n cydymffurfio â gofynion adran 1 yn euog o dramgwydd a all gael ei brofi'n ddiannod, a bydd yn agored i ddirwy heb fod yn uwch na lefel 5 ar y raddfa safonol.
16. Heb ragfarn i'w hawl i gychwyn achos llys mewn perthynas â gwaith adeiladu tramgwyddus, caiff awdurdod lleol roi hysbysiad, i'w alw'n "hysbysiad paragraff 3", sy'n ei gwneud yn ofynnol i'r perchennog gwblhau unrhyw addasiadau a ragnodir yn yr hysbysiad. Os na fydd yn cydymffurfio â'r hysbysiad, caiff yr awdurdod lleol wneud gwaith er mwyn sicrhau cydymffurfio â'r hysbysiad, a chaiff hawlio yn ôl y costau yr aed iddynt wrth wneud hynny gan y person y rhoddwyd yr hysbysiad iddo. Rhaid i hysbysiad paragraff 3 nodi ar ba sail y caniateir apelio yn erbyn yr hysbysiad. Rhaid apelio drwy gwyn i'r Llys Ynadon.
17. Pan fydd gwaith wedi'i wneud yn unol â'r wybodaeth a roddir i'r awdurdod lleol yn unol â darpariaethau adran 3, ni chaiff awdurdod lleol gyhoeddi hysbysiad paragraff 3 oni bai ei fod wedi rhoi hysbysiad o dan adran 3 nad oedd yr wybodaeth, yn ei farn ef, yn dangos y byddai'r gwaith yn cydymffurfio â gofynion adran 1.
18. Pan fydd hysbysiad paragraff 3 wedi'i roi i berson, caiff y person hwnnw hysbysu'r awdurdod lleol ei fod yn bwriadu cael adroddiad am y gwaith y mae'r hysbysiad paragraff 3 yn ymwneud ag ef gan rywun sydd wedi'i gymhwyso'n briodol, ac os bydd yr adroddiad yn arwain yr awdurdod lleol i dynnu'r hysbysiad paragraff 3 yn ôl, caiff yr awdurdod lleol dalu'r person a gafodd yr hysbysiad paragraff 3 y costau yr aed iddynt er mwyn cael yr adroddiad.
19. Mae gan swyddogion awdurdodedig yr awdurdod lleol yr hawl i fynd i mewn i unrhyw fangre at ddibenion gorfodi darpariaethau'r Mesur.
20. Mae gan awdurdod lleol y pŵer i ymgymryd â gwaith profi ei hun, neu i'w gwneud yn ofynnol ymgymryd â'r fath waith, a hynny er mwyn canfod a yw gwaith adeiladu yn cydymffurfio ag unrhyw ofyniad a geir yn y Mesur ai peidio.

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Schedule 1 – Enforcement

14. Save as provided by Schedule 2, the Measure is to be enforced by local authorities.
15. A person carrying out building work which fails to comply with the requirements of section 1 is guilty of an offence triable summarily and liable to a fine not exceeding level 5 on the standard scale.
16. Without prejudice to its right to take proceedings in respect of offending building work, a local authority may serve notice – known as a “paragraph 3 notice” - requiring the owner to effect such alterations as may be specified in the notice. Where the notice is not complied with a local authority may effect works to ensure compliance with the notice and recover from the person on whom the notice had been served the expenses incurred by the local authority in so doing. A paragraph 3 notice must set out the grounds upon which the notice may be appealed against. Appeal is to the Magistrates’ Court by way of complaint.
17. Where work has been undertaken in accordance with information provided to a local authority in accordance with the provisions of section 3, a local authority may not issue a paragraph 3 notice unless it had given notice under section 3 that in its opinion the information does not demonstrate that the work will comply with the requirements of section 1.
18. Where a paragraph 3 notice has been issued, the recipient of the notice may notify the local authority that he or she intends to obtain from a suitably qualified person a report concerning the work to which the paragraph 3 notice relates and, where the report results in the local authority withdrawing the paragraph 3 notice, the local authority may pay to the recipient of the paragraph 3 notice the expenses incurred in obtaining the report.
19. Authorised officers of the local authority have a right of entry to any premises for the purposes of enforcing the provisions of the Measure.
20. A local authority has the power to require or itself undertake testing to ascertain whether or not building work complies with any requirement of the Measure.

Mae'r nodiadau hyn yn cyfeirio at Fesur Diogelwch Tân Domestig (Cymru) 2011 (mccc 3) a gymeradwywyd gan Ei Mawrhydi yn y Cyfrin Gyngor ar 7 Ebrill 2011

Atodlen 2 - Gwaith adeiladu a oruchwylir gan rywun ac eithrio awdurdodau lleol

21. Bydd gan yr Atodlen hon effaith pan fydd hysbysiad cychwynnol o dan Ran 2 o Ddeddf Adeiladu 1984 mewn grym mewn perthynas â gwaith adeiladu y mae'r Mesur hwn yn gymwys iddo (pa un ai'r gwaith i gyd neu ran ohono yw'r gwaith adeiladu hwnnw). Tra bo'r hysbysiad mewn grym, ni fydd y swyddogaeth a roddir i awdurdod lleol i orfodi'r Mesur yn arferadwy mewn perthynas â'r gwaith adeiladu, a rhaid i arolygydd cymeradwy orfodi'r Mesur.

Cofnod Trafodion Cynulliad Cenedlaethol Cymru

Mae'r tabl canlynol yn nodi'r dyddiadau ar gyfer pob cyfnod o hynt y Mesur drwy Gynulliad Cenedlaethol Cymru. Mae Cofnod y Trafodion a rhagor o wybodaeth am hynt y Mesur ar gael ar wefan Cynulliad Cenedlaethol Cymru:

<http://www.cynulliadcymru.org/bus-home/bus-legislation.htm>

Cyflwyno'r Mesur arfaethedig	8 Gorffennaf 2010
Cyfnod 1 - Pwyllgor yn ystyried yr egwyddorion cyffredinol	14 Gorffennaf 2010 23 & 30 Medi 2010 7, 14 & 21 Hydref 2010
Cyfnod 1 - Dadl yn y cyfarfod llawn ar yr egwyddorion cyffredinol	24 Tachwedd 2010
Cyfnod 2 - Pwyllgor yn ystyried y gwelliannau	20 Ionawr 2011
Cyfnod 3 - Y cyfarfod llawn yn ystyried y gwelliannau	16 Chwefror 2011
Cyfnod 4 - Pasio'r Mesur arfaethedig yn y cyfarfod llawn	16 Chwefror 2011
Cymeradwyaeth Frenhinol yn y Cyfrin Gyngor	7 Ebrill 2011

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Schedule 2 – Building work supervised otherwise than by local authorities

21. This Schedule has effect where an initial notice under Part 2 of the Building Act 1984 is in force in relation to building work (whether such building work forms the whole or part of the work so specified) to which this Measure applies. Whilst the notice is in place the function of enforcing the Measure conferred on a local authority is not exercisable in relation to the building work and the Measure is to be enforced by an approved inspector.

Record of Proceedings in the National Assembly for Wales

The following table sets out the dates for each stage of the Measure's passage through the National Assembly for Wales. The Record of Proceedings and further information on the passage of this Measure can be found on the National Assembly for Wales' website at:

<http://www.assemblywales.org/bus-home/bus-legislation.htm>

Proposed Measure introduced	8 July 2010
Stage 1 - Committee consideration of general principles	14 July 2010 23 & 30 September 2010 7, 14 & 21 October 2010
Stage 1 - Debate in plenary on general principles	24 November 2010
Stage 2 - Committee consideration of amendments	20 January 2011
Stage 3 - Plenary consideration of amendments	16 February 2011
Stage 4 - Passing of the proposed Measure in Plenary	16 February 2011
Royal Approval in Council	7 April 2011

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