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INSTRUMENTS

2009 Rhif 55 (Cy.19)

2009 No. 55 (W.19)

TAI, CYMRU

HOUSING, WALES

**Gorchymyn Awdurdodau Lleol
(Ffioedd Chwiliadau Eiddo)
(Datgymhwyso) (Cymru) 2009**

**The Local Authorities (Charges for
Property Searches) (Disapplication)
(Wales) Order 2009**

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Order)

Mae'r Gorchymyn hwn yn datgymhwyso adran 93(1) o Ddeddf Llywodraeth Leol 2003 yng Nghymru mewn cysylltiad â chwiliadau eiddo penodol. Rhestrir yn erthygl 4 yr awdurdodau gwerth gorau yng Nghymru y mae'r Gorchymyn hwn yn gymwys iddynt.

This Order disapplies section 93(1) of the Local Government Act 2003 in Wales in connection with certain property searches. The Welsh best value authorities to which this Order applies are set out in article 4.

O dan erthygl 1(2), daw'r Gorchymyn hwn i rym pan ddirymir Rheoliadau Awdurdodau Lleol (Ffioedd Chwiliadau Tir) 1994 o ran Cymru. Gwnaed y Rheoliadau hynny o dan adran 150 o Ddeddf Llywodraeth Leol a Thai 1989, ac unwaith y byddant wedi eu dirymu, bydd Rheoliadau eraill sydd i'w gwneud o dan adran 150 mewn cysylltiad â ffioedd chwiliadau eiddo yn cymryd eu lle. Gwneir y Rheoliadau hyn i Gymru ar wahân i rai Lloegr. Gwneir hefyd Orchymyn Datgymhwyso tebyg ar gyfer Lloegr (O.S. 2008/2909).

Under article 1(2), this Order comes into force when the Local Authorities (Charges for Land Searches) Regulations 1994 are revoked in relation to Wales. Those Regulations were made under section 150 of the Local Government and Housing Act 1989, and once revoked, will be replaced with further Regulations to be made under section 150 in respect of charges for property searches. These Regulations will be made separately for Wales and England. A similar Disapplication Order is also being made for England (S.I. 2008/2909).

Mae adran 93(1) o Ddeddf Llywodraeth Leol 2003 yn galluogi awdurdodau gwerth gorau i godi ffi am wasanaethau, a bydd ei datgymhwyso'n galluogi'r Rheoliadau drafft, sy'n cael eu gosod gerbron Cynulliad Cenedlaethol Cymru ar yr un diwrnod â'r Gorchymyn hwn, i gael eu gwneud o dan adran 150 o Ddeddf Llywodraeth Leol a Thai 1989. Fel arall, mae adran 150(1)(b) yn caniatáu i'r cyfryw Reoliadau gael eu gwneud ddim ond mewn cysylltiad ag unrhyw beth nad oes unrhyw bwer neu ddyletswydd ac eithrio o dan y Rheoliadau i godi ffi mewn cysylltiad ag ef ("in respect of which there is no power or duty to impose a charge apart from the regulations").

Section 93(1) of the Local Government Act 2003 enables best value authorities to charge for services and its disapplication will enable the draft Regulations to be made under section 150 of the Local Government and Housing Act 1989 which are laid before the National Assembly for Wales on the same day as this Order. Otherwise, section 150(1)(b) permits such Regulations to be made only in respect of anything "in respect of which there is no power or duty to impose a charge apart from the regulations".

Mae asesiad effaith rheoleiddiol wedi ei baratoi mewn cysylltiad â'r Rheoliadau hyn a gellir cael copi gan Llywodraeth Cynulliad Cymru, Y Gyfarwyddiaeth Dai, Rhyd-y-car, Merthyr Tudful, CF48 1UZ (ffôn 01685 729158).

A regulatory impact assessment has been prepared in connection with these Regulations and a copy can be obtained from the Welsh Assembly Government, Housing Directorate, Rhydycar, Merthyr Tydfil, CF48 1UZ (telephone 01685 729158).

2009 Rhif 55 (Cy.19)

TAI, CYMRU

**Gorchymyn Awdurdodau Lleol
(Ffioedd Chwiliadau Eiddo)
(Datgymhwyso) (Cymru) 2009**

Gwnaed 19 Ionawr 2009

*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 21 Ionawr 2009

Yn dod i rym yn unol â rheoliad 1(2)

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i Gynulliad Cenedlaethol Cymru gan adran 94 o Ddeddf Llywodraeth Leol 2003(1) ac a freiniwyd bellach yng Ngweinidogion Cymru(2) yn gwneud y Gorchymyn a ganlyn:

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Awdurdodau Lleol (Ffioedd Chwiliadau Eiddo) (Datgymhwyso) (Cymru) 2009.

(2) Daw'r Gorchymyn hwn i rym ar y diwrnod y daw Rheoliadau sy'n dirymu Rheoliadau Awdurdodau Lleol (Ffioedd Chwiliadau Tir) 1994(3) i rym.

(3) Dim ond i awdurdodau lleol yng Nghymru y mae'r Gorchymyn hwn yn gymwys.

Dehongli

2.—(1) Yn y Gorchymyn hwn, ystyr "mynediad i gofnodion eiddo" ("*access to property records*") yw mynediad i gofnodion eiddo a roddir gan awdurdod lleol mewn unrhyw un neu rai o'r ffyrdd a ganlyn—

(1) 2003 p. 26.

(2) Mae'r pŵer o dan adran 94 o Ddeddf Llywodraeth Leol 2003 yn arferadwy o ran Cymru gan Weiniogion Cymru; gweler y diffiniad o "appropriate person" yn adran 124 o'r Ddeddf, a pharagraffau 30 a 32 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p.32).

(3) O.S. 1994/1885.

2009 No. 55 (W.19)

HOUSING, WALES

**The Local Authorities (Charges for
Property Searches) (Disapplication)
Wales) Order 2009**

Made 19 January 2009

*Laid before the National
Assembly for Wales* 21 January 2009

*Coming into force in accordance with
regulation 1(2)*

The Welsh Ministers make the following Order in exercise of the powers conferred on the National Assembly for Wales by section 94 of the Local Government Act 2003(1) and now vested in the Welsh Ministers (2):

Title, commencement and application

1.—(1) The title of this Order is the Local Authorities (Charges for Property Searches) (Disapplication) (Wales) Order 2009.

(2) This Order comes into force on the same day as the day on which Regulations revoking the Local Authorities (Charges for Land Searches) Regulations 1994(3) come into force.

(3) This Order applies only to local authorities in Wales.

Interpretation

2.—(1) In this Order, "access to property records" ("*mynediad i gofnodion eiddo*") means access to property records granted by a local authority in any of the following ways—

(1) 2003 c. 26.

(2) The power under section 94 of the Local Government Act 2003 is exercisable in relation to Wales, by the Welsh Ministers; see the definition of "appropriate person" in section 124 of the Act, and paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(3) S.I. 1994/1885.

- (a) caniatáu i berson archwilio neu chwilio cofnodion eiddo mewn man a ddynodwyd gan yr awdurdod ar gyfer gwneud hynny;
- (b) caniatáu gwneud cofnodion eiddo, neu ddarparu copïau ohonynt; neu
- (c) trosglwyddo cofnodion eiddo neu gopïau o'r cyfryw gofnodion yn electronig,

ac yn y Gorchymyn hwn mae'r ymadrodd "mynediad i gofnodion eiddo" ("*access to property records*") i'w ddehongli'n unol â hynny.

(2) Yn y Gorchymyn hwn, ystyr cyfeiriad at fod awdurdod lleol yn "ateb ymholiadau ynghylch eiddo" ("*answering enquiries about a property*") yw—

- (a) bod yr awdurdod yn ateb unrhyw ymholiad penodol, boed ar lafar neu'n ysgrifenedig, a wneir gan berson ynghylch eiddo neu gofnodion eiddo; neu
- (b) bod yr awdurdod yn cyflawni unrhyw weithgareddau at ddibenion ateb y cyfryw ymholiadau.

(3) Yn y Gorchymyn hwn—

mae "cofnodion eiddo" ("*property records*")—

- (a) yn cynnwys dogfennau, cofrestrau, ffeiliau ac archifau (sydd ar gadw ar unrhyw ffurf gan yr awdurdod lleol) sy'n ymwneud ag eiddo;
- (b) yn cynnwys gwybodaeth sy'n deillio o'r cyfryw ddogfennau, cofrestrau, ffeiliau ac archifau; ond
- (c) heb fod yn cynnwys cofrestr pridiannau tir lleol a gedwir o dan adran 3(2) o Ddeddf Pridiannau Tir Lleol 1975(1);

ystyr "eiddo" ("*property*") yw adeilad neu adeiledd penodedig neu dir penodedig y mae cofnodion eiddo mewn perthynas ag ef ar gadw gan yr awdurdod lleol.

Datgymhwyso adran 93(1) o Ddeddf Llywodraeth Leol 2003

3. Nid yw adran 93(1) o Ddeddf Llywodraeth Leol 2003 yn gymwys mewn perthynas â'r awdurdodau gwerth gorau a enwir yn erthygl 4, o ran caniatáu mynediad i gofnodion eiddo neu ateb ymholiadau ynghylch eiddo.

Awdurdodau y mae'r Gorchymyn hwn yn gymwys iddynt

4. Cynghorau sir a chynghorau bwrdeistref sirol yng Nghymru yw'r awdurdodau gwerth gorau y mae'r Gorchymyn hwn yn gymwys iddynt(2).

- (a) allowing a person to inspect or search property records at a place designated by the authority for doing so;
- (b) allowing the making of or providing copies of, property records; or
- (c) the electronic transmission of property records, or copies of such records,

and in this Order, the expression "access to property records" ("*mynediad i gofnodion eiddo*") is to be construed accordingly.

(2) In this Order, a reference to a local authority "answering enquiries about a property" ("*ateb ymholiadau ynghylch eiddo*") means—

- (a) the answering by the authority of any specific oral or written enquiries from a person about a property or property records; or
- (b) the carrying out by the authority of any activities for the purposes of answering such enquiries.

(3) In this Order—

"property" ("*eiddo*") means a specified building or structure or specified land in relation to which property records are held by a local authority; and

"property records" ("*cofnodion eiddo*") —

- (a) includes documents, registers, files and archives (held in any form by the local authority), which relate to a property;
- (b) includes information derived from such documents, registers, files and archives; but
- (c) excludes the local land charges register kept under section 3(2) of the Local Land Charges Act 1975(1).

Disapplication of section 93(1) of the Local Government Act 2003

3. Section 93(1) of the Local Government Act 2003 does not apply in relation to the best value authorities named in article 4, when granting access to property records or answering enquiries about a property.

Authorities to which this Order applies

4. The best value authorities to which this Order applies are county councils and county borough councils in Wales(2).

(1) 1975 p.76.

(2) *Gweler* y diffiniad o "Welsh best value authority" a "local authority in Wales" yn adran 1 o Ddeddf Llywodraeth Leol 1999.

(1) 1975 c. 76.

(2) *See* the definition of "Welsh best value authority" and "local authority in Wales" in section 1 of the Local Government Act 1999.

Jocelyn Davies

O dan awdurdod y Gweinidog dros yr Amgylchedd,
Cynaliadwyedd a Thai, un o Weinidogion Cymru

Under authority of the Minister for Environment,
Sustainability and Housing, one of the Welsh Ministers

19 Ionawr 2009

19 January 2009

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