



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2018 Rhif 1087 (Cy. 227)

2018 No. 1087 (W. 227)

**CYNLLUNIO GWLAD A
THREF, CYMRU**

**TOWN AND COUNTRY
PLANNING, WALES**

**Gorchymyn Esemptiad Eglwysig
(Adeiladau Rhestredig ac
Ardaloedd Cadwraeth) (Cymru)
2018**

**The Ecclesiastical Exemption
(Listed Buildings and Conservation
Areas) (Wales) Order 2018**

NODYN ESBONIADOL

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

Mae'r Gorchymyn hwn yn dirymu ac yn disodli Gorchymyn Esemptiad Eglwysig (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1994 ar gyfer Cymru.

Mae adran 60(1) a (2) o Ddeddf Cynllunio (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1990 ("Deddf 1990") yn darparu nad yw adeiladau eglwysig sydd am y tro yn cael eu defnyddio at ddibenion eglwysig yn ddarostyngedig i adrannau 3A, 4, 7 i 9, 47, 54 a 59 o Ddeddf 1990. Mae hyn wedi ei ddiffinio yn erthygl 2 fel esemptiad eglwysig adeiladau rhestredig. Mae'r adrannau hynny yn ymwneud â rheoli adeiladau rhestredig, gan gynnwys: hysbysiadau diogelu adeilad; cyfyngiadau ar waith dymchwel, addasu neu estyn; caffael yn orfodol adeiladau y mae angen eu hatgyweirio; gwaith cadwraeth brys gan awdurdod lleol a Gweinidogion Cymru; a throseddau mewn perthynas â difrod bwriadol.

Mae adran 75 o Ddeddf 1990 yn darparu nad yw adeiladau eglwysig sydd am y tro yn cael eu defnyddio at ddibenion eglwysig yn ddarostyngedig i adran 74 o Ddeddf 1990. Mae adran 74 yn ymwneud â rheoli dymchwel adeiladau mewn ardaloedd cadwraeth. Hwn yw'r esemptiad eglwysig cydsyniad ardal gadwraeth.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order revokes and replaces the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994 for Wales.

Section 60(1) and (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("the 1990 Act") provides that ecclesiastical buildings which are for the time being used for ecclesiastical purposes are not subject to sections 3A, 4, 7 to 9, 47, 54 and 59 of the 1990 Act. This is defined in article 2 as listed buildings ecclesiastical exemption. Those sections relate to listed building control, including: building preservation notices; restrictions on works of demolition, alteration or extension; compulsory acquisition of buildings in need of repair; urgent preservation works by a local authority and the Welsh Ministers; and offences in relation to intentional damage.

Section 75 of the 1990 Act provides that ecclesiastical buildings which are for the time being used for ecclesiastical purposes are not subject to section 74 of the 1990 Act. Section 74 relates to the control of demolition of buildings in conservation areas. This is the conservation area consent ecclesiastical exemption.

Mae'r Gorchymyn hwn yn dileu'r esemptiad eglwysig adeiladau rhestredig yn achos pob adeilad eglwysig ac eithrio ar gyfer yr achosion hynny sy'n dod o fewn erthygl 4. O dan erthygl 4 cedwir yr esemptiad mewn cysylltiad ag adeiladau eglwys yr Eglwys yng Nghymru, Eglwys Loegr, yr Eglwys Gatholig, yr Eglwys Fethodistaidd, Undeb Bedyddwyr Prydain Fawr ac Undeb Bedyddwyr Cymru ar yr amod mai'r prif ddefnydd a wneir o'r adeilad o dan sylw yw fel man addoli, ac yn ddarostyngedig i'r cyfyngiadau a nodir yn yr erthygl honno.

Mae adeilad eglwys yn cynnwys—

- (a) unrhyw wrthrych neu strwythur sy'n sOWNd wrth adeilad yr eglwys;
- (b) unrhyw wrthrych neu strwythur o fewn cwrttil adeilad eglwys, er nad yw'n sOWNd wrth yr adeilad hwnnw, sy'n ffurfio rhan o'r tir.

(Dyma'r sefyllfa erbyn hyn ni waeth pa un a yw'r gwrthrych neu strwythur hwnnw yn rhestredig yn ei hawl ei hun ai peidio.)

Mae erthygl 6 yn darparu os yw cais am gydsyniad adeilad rhestredig mewn perthynas ag unrhyw wrthrych neu strwythur o fewn cwrttil adeilad eglwys, er nad yw'n sOWNd wrth yr adeilad hwnnw, sy'n ffurfio rhan o'r tir (fel y'i diffinir yn erthygl 4(1)(b)), eisoes wedi ei wneud cyn y dyddiad y daw'r Gorchymyn hwn i rym, yna ni fydd y Gorchymyn hwn yn gymwys i'r cais hwnnw a bydd yr awdurdod cynllunio lleol yn parhau i benderfynu ar y cais hwnnw.

Mae'r Gorchymyn hwn hefyd yn dileu'r esemptiad eglwysig cydsyniad ardal gadwraeth o ran pob adeilad eglwysig.

Mae erthygl 1(3) yn darparu nad yw colli'r esemptiad eglwysig yn effeithio ar unrhyw waith sydd wedi cychwyn, neu unrhyw waith yr ymrwymwyd i gontract mewn cysylltiad ag ef, cyn i'r Gorchymyn ddod i rym.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Gorchymyn hwn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Gorchymyn hwn. Gellir cael copi oddi wrth: Gwasanaethau'r Amgylchedd Hanesyddol (Cadw), Llywodraeth Cymru, Plas Carew, Caerdydd, CF15 7QQ ac mae ar gael ar wefan Llywodraeth Cymru yn www.llyw.cymru.

This Order removes the listed buildings ecclesiastical exemption in the case of all ecclesiastical buildings other than for those cases falling within article 4. Under article 4 the exemption is retained in respect of church buildings of the Church in Wales, the Church of England, the Roman Catholic Church, the Methodist Church, the Baptist Union of Great Britain and the Baptist Union of Wales provided that the building in question's primary use is as a place of worship and subject to the restrictions set out in that article.

A church building includes—

- (a) any object or structure fixed to the church building;
- (b) any object or structure within the curtilage of a church building which, although not fixed to that building, forms part of the land.

(This is now the case whether or not that object or structure is listed in its own right.)

Article 6 provides that if an application for listed building consent in relation to any object or structure within the curtilage of a church building which, although not fixed to that building, forms part of the land (as defined in article 4(1)(b)) has already been made before the coming into force date of this Order, then this Order will not apply to that application and the local planning authority will continue to determine it.

This Order also removes the conservation area consent ecclesiastical exemption from all ecclesiastical buildings.

Article 1(3) provides that the loss of ecclesiastical exemption does not affect any works which have commenced, or in respect of which a contract has been made, before the Order comes into force.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with this Order. A copy can be obtained from Historic Environment Services (Cadw), The Welsh Government, Plas Carew, Cardiff, CF15 7QQ and on the Welsh Government's website at www.gov.wales.

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2018**

**The Ecclesiastical Exemption
(Listed Buildings and Conservation
Areas) (Wales) Order 2018**

Gwnaed 15 Hydref 2018

Made 15 October 2018

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 16 Hydref 2018

Laid before the National Assembly for Wales
16 October 2018

Yn dod i rym 1 Ionawr 2019

Coming into force 1 January 2019

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir i'r Ysgrifennydd Gwladol gan adrannau 60, 75 a 93 o Ddeddf Cynllunio (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1990(1), ac sydd bellach yn arferadwy ganddynt hwy(2), yn gwneud y Gorchymyn a ganlyn.

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by sections 60, 75 and 93 of the Planning (Listed Buildings and Conservation Areas) Act 1990(1), and now exercisable by them(2), make the following Order.

Enwi, cychwyn, cymhwyso a darpariaeth atodol

Title, commencement, application and supplementary provision

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Esemptiad Eglwysig (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) (Cymru) 2018 a daw i rym ar 1 Ionawr 2019.

1.—(1) The title of this Order is the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) (Wales) Order 2018 and it comes into force on 1 January 2019.

(1) 1990 p. 9. Diwygiwyd adran 60(2) gan adran 26(9) o Ddeddf yr Amgylchedd Hanesyddol (Cymru) 2016 (dccc 4) ("Deddf 2016"). Mae diwygiadau eraill i adran 60 a diwygiadau i adran 75 nad ydynt yn berthnasol i'r offeryn hwn. Diwygiwyd adran 93(5) gan adran 40(7) o Ddeddf 2016; diwygiwyd adran 93(6) gan adran 40(8) o Ddeddf 2016. Mae diwygiadau eraill i adran 93 nad ydynt yn berthnasol i'r offeryn hwn.

(2) Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan adrannau 60, 75 a 93 o Ddeddf Cynllunio (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1990 i Gynulliad Cenedlaethol Cymru gan erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672), ac Atodlen 1 iddo, i'r graddau y maent yn arferadwy o ran Cymru. Trosglwyddwyd y swyddogaethau hynny i Weinidogion Cymru gan adran 162 o Ddeddf Llywodraeth Cymru 2006 (p. 32) a pharagraff 30 o Atodlen 11 iddi, ac mae'r swyddogaethau hynny yn swyddogaethau perthnasol y Cynulliad fel y'u diffinnir ym mharagraff 30(2).

(1) 1990 c. 9. Section 60(2) was amended by section 26(9) of the Historic Environment (Wales) Act 2016 (anaw 4) ("the 2016 Act"). There are other amendments to sections 60 and amendments to section 75 which are not relevant to this instrument. Section 93(5) was amended by section 40(7) of the 2016 Act; section 93(6) was amended by section 40(8) of the 2016 Act. There are other amendments to section 93 which are not relevant to this instrument.

(2) The functions of the Secretary of State under sections 60, 75 and 93 of the Planning (Listed Buildings and Conservation Areas) Act 1990 were transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), so far as exercisable in relation to Wales. The functions were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), the functions being relevant Assembly functions as defined in paragraph 30(2).

(2) Mae'r Gorchymyn hwn yn gymwys i adeiladau eglwysig yng Nghymru sydd am y tro yn cael eu defnyddio at ddibenion eglwysig.

(3) Nid oes dim yn y Gorchymyn hwn yn ei gwneud yn ofynnol i gael cydsyniad adeilad rhestredig neu gydsyniad ardal gadwraeth ar gyfer gwaith a gychwynwyd, neu ar gyfer gwaith yr ymrwymwyd i gontract mewn cysylltiad ag ef, cyn i'r Gorchymyn hwn ddod i rym.

Dehongli

2. Yn y Gorchymyn hwn—

ystyr “Deddf 1990” (“*the 1990 Act*”) yw Deddf Cynllunio (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1990;

mae i “yr Eglwys Fethodistaidd” yr ystyr a roddir i “the Methodist Church” fel y’i diffinnir yn adran 2(1) o Ddeddf yr Eglwys Fethodistaidd 1976(1); ac

ystyr “esemptiad eglwysig adeiladau rhestredig” (“*listed buildings ecclesiastical exemption*”) yw’r esemptiad rhag darpariaethau adrannau 3A, 4, 7 i 9, 47, 54 a 59 o Ddeddf 1990(2) y darperir ar ei gyfer yn adran 60(1) i (3) o Ddeddf 1990(3).

Eithrio esemptiad eglwysig adeiladau rhestredig

3. Mae esemptiad eglwysig adeiladau rhestredig wedi ei eithrio mewn cysylltiad â phob adeilad eglwysig ar wahân i’r achosion hynny sy’n dod o fewn erthygl 4.

Adeiladau sy’n cadw esemptiad eglwysig adeiladau rhestredig

4.—(1) Yn yr erthygl hon, ystyr “adeilad eglwys” (“*church building*”) yw adeilad a ddefnyddir yn bennaf fel man addoli, ac at ddibenion y diffiniad hwn mae—

- (a) unrhyw wrthrych neu strwythur sy’n sOWNd wrth yr adeilad hwnnw; a
- (b) unrhyw wrthrych neu strwythur o fewn cwrttil adeilad eglwys, er nad yw’n sOWNd wrth yr adeilad hwnnw, sy’n ffurfio rhan o’r tir,

yn cael ei drin fel pe bai’n rhan o adeilad yr eglwys.

(2) This Order applies to ecclesiastical buildings in Wales which are for the time being used for ecclesiastical purposes.

(3) Nothing in this Order requires listed building consent or conservation area consent for works commenced, or for works in respect of which a contract has been made, before this Order comes into force.

Interpretation

2. In this Order—

“the 1990 Act” (“*Deddf 1990*”) means the Planning (Listed Buildings and Conservation Areas) Act 1990;

“listed buildings ecclesiastical exemption” (“*esemptiad eglwysig adeiladau rhestredig*”) means the exemption from the provisions of sections 3A, 4, 7 to 9, 47, 54 and 59 of the 1990 Act(1) provided for in section 60(1) to (3) of the 1990 Act(2); and

“the Methodist Church” (“*yr Eglwys Fethodistaidd*”) means the Methodist Church as defined in section 2(1) of the Methodist Church Act 1976(3).

Exclusion of listed buildings ecclesiastical exemption

3. Listed buildings ecclesiastical exemption is excluded in respect of all ecclesiastical buildings other than those cases falling within article 4.

Buildings retaining listed buildings ecclesiastical exemption

4.—(1) In this article “church building” (“*adeilad eglwys*”) means a building whose primary use is as a place of worship, and for the purposes of this definition—

- (a) any object or structure fixed to that building; and
- (b) any object or structure within the curtilage of a church building which, although not fixed to that building, forms part of the land,

is treated as part of the church building.

(1) 1976 p. xxx.

(2) Mewnosodwyd adran 3A gan adran 25(3) o Ddeddf 2016. Diwygiwyd adran 4(2) gan adran 26(5) o Ddeddf 2016. Mae diwygiadau i adrannau 7 i 9, 47, 54 a 59 nad ydynt yn berthnasol i’r offeryn hwn.

(3) Mae diwygiadau i adran 60(3) nad ydynt yn berthnasol i’r offeryn hwn.

(1) Section 3A was inserted by section 25(3) of the 2016 Act. Section 4(2) was amended by section 26(5) of the 2016 Act. There are amendments to sections 7 to 9, 47, 54 and 59 which are not relevant to this instrument.

(2) There are amendments to section 60(3) which are not relevant to this instrument.

(3) 1976 c. xxx.

(2) Mae esemptiad eglwysig adeiladau rhestredig wedi ei gadw ar gyfer yr adeiladau a ganlyn i'r graddau a nodir ym mharagraff (3)—

- (a) adeiladau eglwys yr Eglwys yng Nghymru sydd wedi eu breinio yng Nghorff Cynrychioliadol yr Eglwys yng Nghymru⁽¹⁾ neu unrhyw gorff cynrychioliadol a ymgorfforwyd o dan adran 13(2) o Ddeddf yr Eglwys yng Nghymru 1914⁽²⁾;
- (b) adeiladau eglwys o fewn awdurdodaeth hawleb Eglwys Loegr;
- (c) adeiladau eglwys sy'n cael eu dal ar ymddiriedolaeth gan ymddiriedolwyr esgobaethol un o esgobaethau'r Eglwys Gatholig;
- (d) adeiladau eglwys sy'n eiddo i'r Eglwys Fethodistaidd, neu sy'n cael eu dal ar ymddiriedolaeth ar ei chyfer, neu at ei dibenion, neu unrhyw sefydliad cyfundebol neu leol i'r Eglwys Fethodistaidd;
- (e) adeiladau eglwys sy'n cael eu dal ar ymddiriedolaeth ar gyfer Eglwys sy'n aelod o Undeb Bedyddwyr Prydain Fawr neu Undeb Bedyddwyr Cymru gan naill ai—
 - (i) the Baptist Union Corporation Limited (pa un ai'n unigol neu ar y cyd â pherson arall neu bersonau eraill); neu
 - (ii) the Welsh Baptist Union Corporation Limited (pa un ai'n unigol neu ar y cyd â pherson arall neu bersonau eraill).

(3) Mae esemptiad eglwysig adeilad rhestredig yn gyfyngedig mewn cysylltiad ag adeiladau eglwys sy'n dod o fewn is-baragraffau (a) ac (c) i (e) o baragraff (2) i waith a gynhelir—

- (a) gan neu ar ran eglwys neu gorff, neu ran gyfansoddol o eglwys neu gorff, y cyfeirir ati neu ato yn yr is-baragraffau hynny; neu
- (b) gan neu ar ran corff llywodraethu neu ymddiriedolwyr y sefydliad hwnnw pan fo'r adeiladau eglwys o dan sylw ar unrhyw fangre sy'n ffurfio rhan o brifysgol, coleg, ysgol, ysbyty, sefydliad cyhoeddus neu sefydliad elusennol.

(2) Listed buildings ecclesiastical exemption is retained for the following buildings to the extent set out in paragraph (3)—

- (a) church buildings of the Church in Wales vested in the Representative Body of the Church in Wales⁽¹⁾ or any other representative body incorporated under section 13(2) of the Welsh Church Act 1914⁽²⁾;
- (b) church buildings within the faculty jurisdiction of the Church of England;
- (c) church buildings held in trust by the diocesan trustees of a diocese of the Roman Catholic Church;
- (d) church buildings owned by or held in trust for or for the purposes of the Methodist Church or any connexional or local organisation of the Methodist Church;
- (e) church buildings held in trust for a Church in membership with the Baptist Union of Great Britain or the Baptist Union of Wales by either—
 - (i) the Baptist Union Corporation Limited (whether alone or jointly with another person or persons); or
 - (ii) the Welsh Baptist Union Corporation Limited (whether alone or jointly with another person or persons).

(3) Listed building ecclesiastical exemption is restricted in respect of church buildings falling within sub-paragraphs (a) and (c) to (e) of paragraph (2) to works carried out—

- (a) by or on behalf of a church or body, or a constituent part of a church or body, referred to in those sub-paragraphs; or
- (b) by or on behalf of the governing body or the trustees of that institution where the church buildings in question are on any premises forming part of a university, college, school, hospital or public or charitable institution.

(1) *Gweler* Gorchymyn yn y Cyfrin Gyngor Siarter Corffori Corff Cynrychioliadol yr Eglwys yng Nghymru 1919 (O.S. 1919/564).
(2) 1914 p. 91.

(1) *See* the Church of Wales Representative Body Charter of Incorporation Order in Council 1919 (S.I. 1919/564).
(2) 1914 c. 91.

Eithrio esemptiad cydsyniad ardal gadwraeth

5. Mae'r esemptiad rhag darpariaethau adran 74 o Ddeddf 1990(1) y darperir ar ei gyfer yn adran 75(1)(b) o Ddeddf 1990 wedi ei eithrio yn achos pob adeilad eglwysig gan gynnwys—

- (a) unrhyw wrthrych neu strwythur sy'n sownd wrth yr adeilad hwnnw; a
- (b) unrhyw wrthrych neu strwythur o fewn cwrttil adeilad, er nad yw'n sownd wrth yr adeilad hwnnw, sy'n ffurfio rhan o'r tir.

Darpariaethau trosiannol: gwrthrychau a strwythurau o fewn cwrttil

6. Nid yw erthygl 4 yn gymwys pan fo cais am gydsyniad adeilad rhestredig mewn perthynas ag unrhyw wrthrych neu strwythur o fewn cwrttil adeilad eglwysig, er nad yw'n sownd wrth yr adeilad hwnnw, sy'n ffurfio rhan o'r tir, yn cael ei wneud cyn i'r Gorchymyn hwn ddod i rym.

Dirymu Gorchymyn Esemptiad Eglwysig (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1994

7. Mae Gorchymyn Esemptiad Eglwysig (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1994(2) wedi ei ddirymu.

Exclusion of conservation area consent exemption

5. The exemption from the provisions of section 74 of the 1990 Act(1) provided for in section 75(1)(b) of the 1990 Act is excluded in the case of all ecclesiastical buildings including—

- (a) any object or structure fixed to that building; and
- (b) any object or structure within the curtilage of a building which, although not fixed to that building, forms part of the land.

Transitional provisions: objects and structures within curtilage

6. Article 4 does not apply where an application for listed building consent in relation to any object or structure within the curtilage of a church building which, although not fixed to that building, forms part of the land is made before this Order comes into force.

Revocation of the Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994

7. The Ecclesiastical Exemption (Listed Buildings and Conservation Areas) Order 1994(2) is revoked.

Dafydd Elis Thomas

Y Gweinidog Diwylliant, Twristiaeth a Chwaraeon, o dan awdurdod Ysgrifennydd y Cabinet dros yr Economi a Thrafnidiaeth, un o Weinidogion Cymru
15 Hydref 2018

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Minister for Culture, Tourism and Sport, under the authority of the Cabinet Secretary for Economy and Transport, one of the Welsh Ministers
15 October 2018

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(1) Diwygiwyd adran 74(1) gan adran 63 o Ddeddf Menter a Diwygio Rheoleiddio 2013 (p. 24) ("Deddf 2013") a pharagraff 12(2) o Atodlen 17 iddi. Diwygiwyd adran 74(3) gan erthygl 3 o Orchymyn Cynllunio Gwlad a Thref (Pennu'r Weithdrefn) (Cymru) 2014 (O.S. 2014/2773 (Cy. 280)) a pharagraff 20 o'r Atodlen iddo, a chan adran 63 o Ddeddf 2013 a pharagraff 12(4) o Atodlen 17 iddi. Mae diwygiadau eraill i adran 74 nad ydynt yn berthnasol i'r offeryn hwn.

(2) O.S. 1994/1771.

(1) Section 74(1) was amended by the Enterprise and Regulatory Reform Act 2013 (c. 24) ("the 2013 Act"), section 63 and Schedule 17, paragraph 12(2). Section 74(3) was amended by the Town and Country Planning (Determination of Procedure) (Wales) Order 2014 (S.I. 2014/2773 (W. 280)), article 3 and the Schedule, paragraph 20, and the 2013 Act, section 63 and Schedule 17, paragraph 12(4). There are other amendments to section 74 which are not relevant to this instrument.

(2) S.I. 1994/1771.

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