CYNULLIAD CENEDLAETHOL CYMRU		NATIONAL ASSEMBLY FOR WALES
OFFERYNNAU STATUDOL		**S T A T U T O R Y I N S T R U M E N T S**
2000 Rhif (Cy.)		**2001 No. (W.)**
LLYWODRAETH LEOL, CYMRU		**LOCAL GOVERNMENT, WALES**
Gorchymyn Deddf Llywodraeth Leol a Thai 1989 (Cyfathrebu Electronig) (Cymru) 2001		**The Local Government and Housing Act 1989 (Electronic Communications) (Wales) Order 2001**
NODYN ESBONIADOL *(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn.)*		**EXPLANATORY NOTE** *(This note does not form part of the Order.)*
Mae adran 8 o Ddeddf Cyfathrebu Electronig 2000 ("Deddf 2000") yn rhoi pwer i'r Gweinidog priodol (fel y'i diffinnir yn adrannau 9(1) a 10(1) o Ddeddf 2000) addasu deddfwriaeth er mwyn awdurdodi neu hwyluso defnyddio dulliau cyfathrebu electronig neu ddulliau storio electronig. Mae adran 10 o Ddeddf 2000 yn nodi o dan ba amgylchiadau ac ym mha fodd y mae'r pwer yn Adran 8 yn arferadwy mewn perthynas â Chymru gan Gynulliad Cenedlaethol Cymru. Mae adrannau 80A, 87 ac 88 o Ddeddf Llywodraeth Leol a Thai 1989 ("Deddf 1989") yn cael eu diwygio gan y Gorchymyn hwn i'r graddau y maent yn ymwneud â Chymru. Mae swyddogaethau'r		Section 8 of the Electronic Communications Act 2000 ("the 2000 Act") confers a power on the appropriate Minister (as defined in sections 9(1) and 10(1) of the 2000 Act) to modify legislation for the purpose of authorising or facilitating the use of electronic communications or electronic storage. Section 10 of the 2000 Act sets out the circumstances and the manner in which the Section 8 power is exercisable in relation to Wales by the National Assembly for Wales. Sections 80A, 87 and 88 of the Local Government and Housing Act 1989 ("the 1989 Act") are amended in so far as they

Ysgrifennydd Gwladol o dan Ddeddf 1989 (gyda rhai eithriadau) yn arferadwy yng Nghymru gan Gynulliad Cenedlaethol Cymru yn rhinwedd darpariaethau Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999. Gan hynny, mae pob cyfeiriad at yr Ysgrifennydd Gwladol yn y diwygiadau i Ddeddf 1989 yn gyfeiriadau i bob pwrpas (yng Nghymru) at Gynulliad Cenedlaethol Cymru.

Mae’r diwygiadau’n cael eu gwneud drwy gymhwyso’r diwygiadau i Ddeddf 1989 sydd wedi’u gwneud gan Orchymyn Deddf Llywodraeth Leol a Thai 1989 (Cyfathrebu Electronig) (Lloegr) 2000 (OS 2000/3056) at Gymru. Nodir y diwygiadau hynny yn yr Atodlen i’r Gorchymyn hwn.

Effaith y Gorchymyn hwn yw diwygio adran 80A o Ddeddf 1989 er mwyn caniatáu i Gynulliad Cenedlaethol Cymru ddefnyddio dulliau cyfathrebu electronig:

i hysbysu awdurdod tai lleol o’i benderfyniad terfynol ar faint o gymhorthdal Cyfrif Refeniw Tai sy’n daladwy i’r awdurdod am y flwyddyn, neu

i gyhoeddi’r penderfyniad ar wefan a hysbysu’r awdurdod ei fod wedi gwneud hynny, ym mha le y gellir dod o hyd i’r penderfyniad a sut y gellir cael gafael arno (os yw wedi cytuno felly gyda’r awdurdod).

Effaith y Gorchymyn hwn hefyd yw diwygio adran 87 o Ddeddf Llywodraeth Leol a Thai 1989, yng Nghymru yn unig, i ganiatáu i’r Cynulliad:

defnyddio dulliau cyfathrebu electronig i anfon copi at awdurdod tai lleol o unrhyw ddyfarniad a wneir o dan Ran VI o Ddeddf 1989 (dyfarniad ar faint o gymhorthdal Cyfrif Refeniw Tai sy’n daladwy o dan adran 80 o Ddeddf 1989, neu ddyfarniad ar fformwla y dylai credydau a debydau gael eu cyfrifo yn unol â hi o dan Eitem 8 o Ran I ac Eitem 8 o Ran II o Atodlen 4 i Ddeddf 1989).

relate to Wales by this Order. The functions of the Secretary of State under the 1989 Act (with certain exceptions) are exercisable in Wales by the National Assembly for Wales by virtue of the provisions of the National Assembly for Wales (Transfer of Functions) Order 1999. Consequently, all references in the amendments to the 1989 Act to the "Secretary of State" are therefore in effect (in Wales) to the National Assembly for Wales.

The amendments are made by applying to Wales the amendments to the 1989 Act made by the Local Government and Housing Act 1989 (Electronic Communications) (England) Order 2000 (SI 2000/3056). Those amendments are set out in the Schedule to this Order.

The effect of this Order is to amend section 80A of the 1989 Act to allow the National Assembly for Wales, to use electronic communications:

to notify a local housing authority of its final decision as to the amount of Housing Revenue Account subsidy payable to that authority for the year, or

to publish the decision on a website and notify the authority that it has done so, where the decision may be found and how it may be accessed (if it has so agreed with the authority).

The effect of this Order is also to amend section 87 of the Local Government and Housing Act 1989, in Wales only, to allow the Assembly:

to use electronic communications to send to a local housing authority a copy of any determination made under Part VI of the 1989 Act (a determination of the amount of Housing Revenue Account subsidy payable under section 80 of the 1989 Act, or a determination of formula in accordance with which credits and debits should be calculated under Item 8 of Part I and Item 8 of Part II of Schedule 4 to the 1989 Act).

Mae’r diwygiad hwn hefyd yn caniatáu i Gynulliad Cenedlaethol Cymru gyflawni ei rwymedigaeth i anfon copi o ddyfarniad at awdurdod drwy gyhoeddi’r dyfarniad ar wefan a hysbysu’r awdurdod y gellir dod o hyd iddo yno, a sut y gellir cael gafael arno yno (os yw wedi cytuno felly gyda’r awdurdod). Caiff awdurdod nad yw mwyach yn fodlon derbyn dyfarniad neu benderfyniad drwy ddull electronig hysbysu ei fod yn tynnu ei hysbysiad ynghylch y cyfeiriad y gall gohebiaeth electronig gael ei hanfon ato yn ôl, a’i fod yn diddymu cytundeb y gellir ei hysbysu drwy edrych ar wefan. Daw’r tynnu’n ôl neu’r diddymu i rym ar ddyddiad a bennir gan yr awdurdod sy’n gorfod bod o leiaf fis o’r dyddiad y mae’r awdurdod yn rhoi’r hysbysiad ynghylch y tynnu’n ôl neu’r diddymu. Yn olaf, effaith y Gorchymyn hwn yw diwygio adran 88 o Ddeddf 1989 drwy fewnosod diffiniad o ddulliau cyfathrebu electronig a diffiniad o gyfeiriad at ddibenion cyfathrebu electronig.		This amendment also allows the National Assembly for Wales to discharge its obligation to send a copy of a determination to an authority by publishing the determination on a website and notifying the authority that it may be found there, and how it may be accessed there (if it has so agreed with the authority). An authority which is no longer willing to accept electronic communication of a determination or decision may give notice of its withdrawal of notification of its address to which electronic communications may be sent, and of its revocation of an agreement that it may be notified by consulting a website. Such withdrawal or revocation shall take effect on a date specified by the authority which must be at least one month from the date on which notification of the withdrawal or revocation is given by the authority. Finally, the effect of this Order is to amend section 88 of the 1989 Act by inserting definitions of "electronic communication" and "address" for the purposes of electronic communications.

OFFERYNNAU **STATUDOL**		**S T A T U T O R Y** **I N S T R U M E N T S**
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LLYWODRAETH LEOL, CYMRU		**LOCAL GOVERNMENT, WALES**
Gorchymyn Deddf Llywodraeth Leol a Thai 1989 (Cyfathrebu Electronig) (Cymru) 2001		**The Local Government and Housing Act 1989 (Electronic Communications) (Wales) Order 2001**
Wediiu wneud 2001 *Yn dod i rym 2001*		*Made 2001* *Coming into force 2001*
Mae Cynulliad Cenedlaethol Cymru yn gwneud y Gorchymyn canlynol drwy arfer y pwerau a roddwyd iddo gan adrannau 8 a 10 o Ddeddf Cyfathrebu Electronig 2000**(a)** a chyda chydsyniad yr Ysgrifennydd Gwladol:		The National Assembly for Wales makes the following Order in exercise of the powers conferred on it by sections 8 and 10 of the Electronic Communications Act 2000 **(a)** and with the consent of the Secretary of State:

Enwi, cychwyn, cymhwyso a dehongli

1.-(1) Enw'r Gorchymyn hwn yw Gorchymyn Deddf Llywodraeth Leol a Thai 1989 (Cyfathrebu Electronig) (Cymru) 2001 a daw i rym ar [ ].

(2) Mae'r Gorchymyn hwn yn gymwys i Gymru yn unig.

Citation, commencement, application and interpretation

1.-(1) This Order may be cited as the Local Government and Housing Act 1989 (Electronic Communications) (Wales) Order 2001 and shall come into force on **[ ]**.

(2) This Order applies to Wales only.

(3) In this Order,

(3) Yn y Gorchymyn hwn,

ystyr "Deddf 1989" yw Deddf Llywodraeth Leol a Thai 1989**(b)**.

Diwygiadau i Ddeddf 1989

2. Mae'r diwygiadau a wnaed i Ddeddf 1989 gan Orchymyn Deddf Llywodraeth Leol a Thai 1989 (Cyfathrebu Electronig) (Lloegr) 2000 **(c)** fel y'u nodir yn yr Atodlen i'r Gorchymyn hwn yn gymwys i Gymru hefyd.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998**(ch)**.

[ ] 2001

Llywydd y Cynulliad

Cenedlaethol

Rwy'n cydsynio i'r Gorchymyn hwn.

Ysgrifennydd Gwladol Cymru

[ ] 2001

"the 1989 Act" means the Local Government and Housing Act 1989**(b)**.

Amendments to the 1989 Act

2.- The amendments made to the 1989 Act by the Local Government and Housing Act 1989 (Electronic Communications) (England) Order 2000 **(c)** as set out in the Schedule to this Order also apply to Wales.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998**(d)**.

[ ] 2001

The Presiding Officer

of the National Assembly for Wales

I consent to this Order.

Secretary of State for Wales

[ ] 2001

ATODLEN

Erthygl 2

Cyfathrebu'r penderfyniad terfynol ar swm cymhorthdal y Cyfrif Refeniw Tai yn electronig

1. Yn adran 80A o Ddeddf 1989**(d)** (y penderfyniad terfynol ar swm cymhorthdal y Cyfrif Refeniw Tai) ar ôl is-adran (1), mewnosodir yr is-adrannau canlynol –

"(1A) Notification in writing of a decision under this section is to be taken as given to a local housing authority where notice of the decision is sent using electronic communications to such address as may for the time being be notified by that authority to the Secretary of State for that purpose.

(1B) Notification in writing of a decision under this section is also to be treated as given to a local housing authority where –

(a) the Secretary of State and that authority have agreed that notifications of decisions under this section required to be given in writing to that authority may instead be accessed by that authority on a web site;

(b) the decision is a decision to which that agreement applies;

(c) the Secretary of State has published the decision on a web site;

(d) that authority is notified, in a manner for

SCHEDULE

Article 2

Electronic communication of final decision on amount of Housing Revenue Account subsidy

1. In section 80A of the 1989 Act (e) (final decision on amount of Housing Revenue Account subsidy) after subsection (1), the following subsections are inserted -

"(1A) Notification in writing of a decision under this section is to be taken as given to a local housing authority where notice of the decision is sent using electronic communications to such address as may for the time being be notified by that authority to the Secretary of State for that purpose.

(1B) Notification in writing of a decision under this section is also to be treated as given to a local housing authority where –

(a) the Secretary of State and that authority have agreed that notifications of decisions under this section required to be given in writing to that authority may instead be accessed by that authority on a web site;

(b) the decision is a decision to which that agreement applies;

(c) the Secretary of State has published the decision on a web site;

(d) that authority is notified, in a manner for

the time being agreed for the purpose between it and the Secretary of State, of –

(i) the publication of the decision on a web site;

(ii) the address of that web site; and

(iii) the place on that web site where the notice may be accessed, and how it may be accessed.

(1C) A local housing authority which is no longer willing to accept electronic communications for the notification of decisions under this section, may withdraw a notification of an address given to the Secretary of State for the purposes of subsection (1A) above, and such a withdrawal shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to withdraw the notification of the address given.

(1D) A local housing authority which has entered into an agreement with the Secretary of State under paragraph (a) of subsection (1B) above may revoke the agreement, and such revocation shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to revoke the agreement.".

the time being agreed for the purpose between it and the Secretary of State, of –

(i) the publication of the decision on a web site;

(ii) the address of that web site; and

(iii) the place on that web site where the notice may be accessed, and how it may be accessed.

(1C) A local housing authority which is no longer willing to accept electronic communications for the notification of decisions under this section, may withdraw a notification of an address given to the Secretary of State for the purposes of subsection (1A) above, and such a withdrawal shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to withdraw the notification of the address given.

(1D) A local housing authority which has entered into an agreement with the Secretary of State under paragraph (a) of subsection (1B) above may revoke the agreement, and such revocation shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to revoke the agreement.".

Cyfathrebu dyfarniadau a chyfarwyddiadau yn electronig

2. Yn adran 87 o Ddeddf 1989**(dd)** (penderfyniadau a chyfarwyddiadau) ar ôl is-adran (3), mewnosodir yr is-adrannau canlynol –

"(4) References in this section to sending to a local housing authority a copy of a determination under this Part include references to using electronic communications for sending a copy of a determination to such address as may for the time being be notified to the Secretary of State by that authority for that purpose.

(5) For the purposes of this section a copy of a determination under this Part is also to be treated as sent to a local housing authority where –

(a) the Secretary of State and that authority have agreed to the authority instead having access to determinations on a web site;

(b) the determination is a determination to which that agreement applies;

(c) the Secretary of State has published the determination on a web site;

(d) that authority is notified, in a manner for the time being agreed for the purpose between that authority and the Secretary of State, of –

(i) the publication of the determination on a web site;

Electronic transmission of determinations and directions

2. In section 87 of the 1989 Act**(f)** (determinations and directions) after subsection (3), the following subsections are inserted –

"(4) References in this section to sending to a local housing authority a copy of a determination under this Part include references to using electronic communications for sending a copy of a determination to such address as may for the time being be notified to the Secretary of State by that authority for that purpose.

(5) For the purposes of this section a copy of a determination under this Part is also to be treated as sent to a local housing authority where –

(a) the Secretary of State and that authority have agreed to the authority instead having access to determinations on a web site;

(b) the determination is a determination to which that agreement applies;

(c) the Secretary of State has published the determination on a web site;

(d) that authority is notified, in a manner for the time being agreed for the purpose between that authority and the Secretary of State, of –

(i) the publication of the

(ii) the address of that web site; and

(iii) the place on that web site where the determination may be accessed, and how it may be accessed.

(6) A local housing authority which is no longer willing to accept electronic communications for the notification of decisions under this section, may withdraw a notification of an address given to the Secretary of State for the purposes of subsection (4) above, and such a withdrawal shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to withdraw the notification of the address given.

(7) A local housing authority which has entered into an agreement with the Secretary of State under paragraph (a) of subsection (5) above may revoke the agreement, and such revocation shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to revoke the agreement.".

determination on a web site;

(ii) the address of that web site; and

(iii) the place on that web site where the determination may be accessed, and how it may be accessed.

(6) A local housing authority which is no longer willing to accept electronic communications for the notification of decisions under this section, may withdraw a notification of an address given to the Secretary of State for the purposes of subsection (4) above, and such a withdrawal shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to withdraw the notification of the address given.

(7) A local housing authority which has entered into an agreement with the Secretary of State under paragraph (a) of subsection (5) above may revoke the agreement, and such revocation shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to revoke the agreement.".

Dehongli Rhan VI o Ddeddf 1989 a'i chymhwyso

4. Yn adran 88(1) o Ddeddf 1989 –

(1) ar ddiwedd paragraff (c) dilëir "and";

(2) ar ôl paragraff (d) mewnosodir –

"; and

(e) "electronic communication" means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa) –

(i) by means of a telecommunications system (within the meaning of the Telecommunications Act 1984)**(e)** ; or

(ii) by other means but while in an electronic form;

(f) "address", in relation to electronic communications, includes any number or address used for the purposes of such communications.".

Construction and application of Part VI of the 1989 Act

4. In section 88(1) of the 1989 Act –

(1) at the end of paragraph (c) "and" is deleted;

(2) after paragraph (d) the following is inserted –

"; and

(e) "electronic communication" means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa) –

(i) by means of a telecommunications system (within the meaning of the Telecommunications Act 1984)**(g)**; or

(ii) by other means but while in an electronic form;

(f) "address", in relation to electronic communications, includes any number or address used for the purposes of such communications.".

[ENDNOTES – WILL APPEAR IN PRINTED VERSION AS FOOTNOTES]

(a) 2000 p.7. I gael y diffiniad o "the appropriate Minister" gweler adrannau 9(1) a 10(1).

(b) 1989 p.42.

(c) OS 2000/3056

(ch) 1998 c.38.

(d) Mewnosodwyd adran 80A gan baragraff 5 o Atodlen 18 i Ddeddf Tai 1996 (1996 p.52). Mae swyddogaethau'r Ysgrifennydd Gwladol o dan adran 80A yn arferadwy mewn perthynas â Chymru gan y Cynulliad yn rhinwedd Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (1999 Rhif 672).

(dd) Mae swyddogaethau'r Ysgrifennydd Gwladol o dan adran 87 yn arferadwy mewn perthynas â Chymru gan y Cynulliad yn rhinwedd Gorchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999.

(e) 1984 p.12.

(a) 2000 c.7. For the definition of "the appropriate Minister" see sections 9(1) and 10(1).

(b) 1989 c.42.

(c) SI 2000/3056

(d) 1998 c.38.

(e) Section 80A was inserted by paragraph 5 of Schedule 18 to the Housing Act 1996 (1996 c.52). The Secretary of State's functions under section 80A are exercisable in relation to Wales by the Assembly by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (1999 No.672).

(f) The Secretary of State's functions under section 87 are exercisable in relation to Wales by the Assembly by virtue of The National Assembly for Wales (Transfer of Functions) Order 1999.

(g) 1984 c.12.