



OFFERYNNAU STATUDOL
CYMRU

WELSH
STATUTORY INSTRUMENTS

2009 Rhif 360 (Cy.35)

2009 No. 360 (W.35)

**PYSGODFEYDD MÔR,
CYMRU**

**SEA FISHERIES,
WALES**

**Rheoliadau Cronfa Pysgodfeydd
Ewrop (Grantiau) (Cymru) 2009**

**The European Fisheries Fund
(Grants) (Wales) Regulations 2009**

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn yn gymwys o ran Cymru ac maent yn atodi Rheoliad y Cyngor 1198/2006 ar Gronfa Pysgodfeydd Ewrop ("Rheoliad y Cyngor") a Rheoliad y Comisiwn 498/2007 sy'n gosod rheolau manwl ar gyfer gweithredu Rheoliad y Cyngor ("Rheoliad y Comisiwn"). Wrth arfer y pŵer a gyflwynwyd gan Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006, mae cyfeiriadau at Rheoliad y Cyngor a Rheoliad y Comisiwn yn gyfeiriadau at yr offerynnau hyn fel y'u diwygiwyd o bryd i'w gilydd.

These Regulations apply in relation to Wales and supplement Council Regulation 1198/2006 on the European Fisheries Fund ("the Council Regulation") and Commission Regulation 498/2007 laying down detailed rules for the implementation of the Council Regulation ("the Commission Regulation"). In exercise of power introduced by the Legislative and Regulatory Reform Act 2006, references to the Council Regulation and the Commission Regulation are to these instruments as amended from time to time.

Mae Rheoliad y Cyngor yn darparu ar gyfer talu cymorth ("cymorth Cymunedol") o Gronfa Pysgodfeydd Ewrop a sefydlwyd gan y Gymuned Ewropeaidd mewn perthynas â chategoriâu penodol o fuddsoddiadau, prosiectau a gweithrediadau ("gweithrediadau perthnasol") yn y sector pysgodfeydd a dyframaethu ac yn y sector o'r diwydiant sy'n prosesu a marchnata ei gynhyrchion.

The Council Regulation provides for assistance ("Community aid") to be paid from the European Fisheries Fund established by the European Community in respect of certain categories of investments, projects and actions ("relevant operations") in the fisheries and aquaculture sector and in the industry sector processing and marketing its products.

Mae'r Rheoliadau hyn yn darparu ar gyfer ac yn rheoleiddio talu cymorth Cymunedol a grantiau yn ychwanegol at y cymorth gan Weinidogion Cymru tuag at wariant ar weithrediadau a gymeradwywyd gan Weinidogion Cymru yn unol â'r Rheoliadau hyn, Rheoliad y Cyngor a Rheoliad y Comisiwn.

These Regulations provide for and regulate the payment of Community aid and grants in addition to that aid by the Welsh Ministers towards expenditure on operations which the Welsh Ministers have approved in accordance with these Regulations, the Council Regulation and the Commission Regulation.

Mae'r Rheoliadau hyn (rheoliadau 3, 4 a 5) yn gosod gweithdrefn ar gyfer gwneud a chymeradwyo ceisiadau i gymeradwyo gweithrediadau perthnasol a gwariant at ddibenion talu cymorth Cymunedol ac, os yw Gweinidogion Cymru yn penderfynu felly, talu grant yn ychwanegol at y cymorth hwnnw. Cyfeirir at gymorth a grant o'r fath gyda'i gilydd fel "cymorth ariannol". Wrth benderfynu p'un ai i dalu grant yn

These Regulations (regulations 3, 4 and 5) lay down a procedure for applications for the approval of relevant operations and expenditure to be made and approved for the purpose of the payment of Community aid and, if the Welsh Ministers so determine, grant in addition to that aid. Such aid and grant together is referred to as "financial assistance". In determining whether to pay grant in addition to

ychwanegol at gymorth Cymunedol ai peidio ac, os ydynt yn penderfynu talu grant o'r fath, swm y grant hwnnw, mae'n ofynnol i Weinidogion Cymru roi sylw i ofynion Rheoliad y Cyngor a Rheoliad y Comisiwn (rheoliad 3). Ymhlith pethau eraill, mae Rheoliad y Cyngor yn ei gwneud yn ofynnol fod yna lefel benodol o ymwneud ariannol gan Aelod-wladwriaethau er mwyn galluogi gweithrediadau perthnasol i gymhwyso am gymorth Cymunedol gyda'r lefelau o ymwneud yn cael eu gosod yn Atodiad II i Reoliad y Cyngor.

Mae talu cymorth ariannol yn dibynnu ar ddarparu tystiolaeth foddhaol o'r gwariant a dducpwyd ac o wneud y gweithrediad perthnasol yn briodol (rheoliad 6).

Gwneir darpariaeth ynghylch y dull o dalu cymorth ariannol (rheoliad 7). Caiff Gweinidogion Cymru ei gwneud yn ofynnol i berson y cymeradwyir ei gais roi ymrwymadau (rheoliad 8).

Gwneir darpariaeth (rheoliad 9) ar gyfer personau y cymeradwywyd eu ceisiadau am gymorth ariannol i roi i Weinidogion Cymru y fath wybodaeth ag y dichon Gweinidogion Cymru ofyn yn rhesymol amdani o bryd i'w gilydd ac (o dan reoliad 10) iddynt ddal gafael ar gofnodion penodol am gyfnod o 6 blynedd. Caiff Gweinidogion Cymru estyn y cyfnod hwnnw.

Mae'n ofynnol i geisyddion, os gofynnir iddynt wneud hynny, roi cymorth i swyddogion awdurdodedig, y rhoddir iddynt bwerau mynediad ac arolygu at ddibenion penodedig (rheoliadau 11 a 12). Gwneir darpariaeth, mewn amgylchiadau penodol, ar gyfer cwtogi, dal yn ôl ac adennill cymorth ariannol (rheoliad 13) ac ar gyfer talu llog ar symiau a adenillwyd (rheoliad 14). Mae rheoliad 11 yn darparu bod symiau sy'n daladwy i Weinidogion Cymru yn adenilladwy fel dyled.

Mae'r Rheoliadau yn creu tramgwyddau ac yn darparu cosbau ar gyfer gwneud datganiadau anwir er mwyn cael cymorth ariannol, methiant i gadw cofnodion neu i ddarparu gwybodaeth y gofynnir yn rhesymol amdani gan Weinidogion Cymru, methiant i gydymffurfio â gofynion a wneir gan swyddogion awdurdodedig wrth arfer eu pwerau mynediad ac arolygu a rhwystro'r cyfryw swyddogion wrth iddynt arfer y pwerau hynny (rheoliad 16). Maent hefyd yn gwneud darpariaeth mewn perthynas â thramgwyddau gan gyrff corfforaethol (rheoliad 17).

Gwnaed asesiad effaith rheoleiddiol mewn cysylltiad â'r Rheoliadau hyn ac mae ar gael gan Lywodraeth Cynulliad Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

Community aid and, if they determine to pay such grant, the amount of the grant, the Welsh Ministers are required to have regard to the requirements of the Council Regulation and the Commission Regulation (regulation 3). Among other things the Council Regulation requires a certain level of financial participation by Member States to enable relevant operations to qualify for Community aid, the requisite levels of participation being set out in Annex II to the Council Regulation.

Payment of financial assistance is dependent on the provision of satisfactory evidence of the expenditure incurred and of the proper execution of the relevant operation (regulation 6).

Provision is made concerning the method of payment of financial assistance (regulation 7). The Welsh Ministers may require undertakings to be given by a person whose application is approved (regulation 8).

Provision is made (regulation 9) for persons whose applications for financial assistance have been approved to supply to the Welsh Ministers such information as the Welsh Ministers may from time to time reasonably require and (under regulation 10) for them to retain certain records for a period of 6 years. That period may be extended by the Welsh Ministers.

Applicants are required, on request, to give assistance to authorised officers, who are given power of entry and inspection for specified purposes (regulations 11 and 12). Provision is made for the reduction, withholding and recovery, in certain circumstances, of financial assistance (regulation 13) and for the payment of interest on amounts recovered (regulation 14). Regulation 11 provides that sums payable to the Welsh Ministers are recoverable as a debt.

The Regulations create offences and provide penalties in respect of false statements made to obtain financial assistance, failure to keep records or provide information reasonably requested by the Welsh Ministers, failure to comply with requests made by authorised officers in exercise of their powers of entry and inspection and the obstruction of such officers in the exercise of those powers (regulation 16). They also make provision in relation to offences committed by bodies corporate (regulation 17).

A regulatory impact assessment has been carried out in connection with these Regulations and is available from the Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ.

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**The European Fisheries Fund
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Gwnaed 23 Chwefror 2009

Made 23 February 2009

*Gosodwyd gerbron Cynulliad
Cenedlaethol Cymru* 25 Chwefror 2009

*Laid before the National
Assembly for Wales* 25 February 2009

Yn dod i rym 18 Mawrth 2009

Coming into force 18 March 2009

Mae Gweinidogion Cymru wedi'u dynodi(1) at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(2) o ran polisi amaethyddol cyffredin y Gymuned Ewropeaidd.

The Welsh Ministers are designated(1) for the purposes of section 2(2) of the European Communities Act 1972(2) in relation to the common agricultural policy of the European Community.

Mae'r Rheoliadau hyn yn gwneud darpariaeth ar gyfer diben a grybwyllir yn adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 ac fe ymddengys i Weinidogion Cymru ei bod yn hwylus dehongli unrhyw gyfeiriad yn y Rheoliadau hyn at Reoliad y Cyngor (EC) 1198/2006 a Rheoliad y Comisiwn (EC) 498/2007 fel cyfeiriadau at yr offerynnau hynny fel y'u diwygiwyd o bryd i'w gilydd.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Welsh Ministers that it is expedient for any reference in these Regulations to Council Regulation (EC) 1198/2006 and Commission Regulation (EC) 498/2007 to be construed as references to those instruments as amended from time to time.

Drwy arfer y pwerau a roddwyd iddynt o dan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972, a pharagraff 1A o Atodlen 2 iddi(3), mae Gweinidogion Cymru yn gwneud y Rheoliadau canlynol.

In exercise of the powers conferred upon them under section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(3), the Welsh Ministers make the following Regulations.

(1) O.S. 2005/2766 (fel y'i diwygiwyd gan O.S. 2006/3329). Yn rhinwedd adrannau 59(1) ac 162 o Ddeddf Llywodraeth Cymru 2006 (p.32) a pharagraffau 28 a 30 o Atodlen 11 iddi, mae swyddogaethau a roddwyd i Gynulliad Cenedlaethol Cymru yn arferadwy gan Weinidogion Cymru.

(2) 1972 p.68.

(3) Mewnswyddwyd paragraff 1A o Atodlen 2 gan adran 28 o Ddeddf Diwygio Deddfwriaethol a Rheoleiddiol 2006 (p.51).

(1) S.I. 2005/2766 (as amended by S.I. 2006/3329). By virtue of sections 59(1) and 162 of and paragraphs 28 and 30 of Schedule 11 to the Government of Wales Act 2006 (c.32), functions conferred on the National Assembly for Wales are exercisable by the Welsh Ministers.

(2) 1972 c.68.

(3) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51).

Enwi, cymhwyso a chychwyn

1. Enw'r Rheoliadau hyn yw Rheoliadau Cronfa Pysgodfeydd Ewrop (Grantiau) (Cymru) 2009. Maent yn gymwys o ran Cymru a deuant i rym ar 18 Mawrth 2009.

Dehongli

2.—(1) Yn y Rheoliadau hyn, oni bai bod y cyddestun yn mynnu fel arall—

ystyr "amodau perthnasol" ("*relevant conditions*") yw unrhyw amodau sy'n ymwneud â chymeradwyo cais neu â thalu unrhyw gymorth ariannol y rhoddwyd gwybod amdanynt i fuddiolwr o dan reoliadau 5(3)(b) neu 7;

ystyr "buddiolwr" ("*beneficiary*") yw person y cymeradwywyd ei gais am gymorth ariannol, a dehonglir "buddiolwyr" ("*beneficiaries*") yn unol â hynny;

ystyr "cais" ("*application*") yw cais am daliad o gymorth ariannol o dan reoliad 3(1), ac mae "ceisydd" ("*applicant*") i'w dehongli yn unol â hynny;

ystyr "y Comisiwn" ("*the Commission*") yw Comisiwn y Cymunedau Ewropeaidd;

ystyr "cymeradwyaeth" ("*approval*") yw cymeradwyaeth a roddir o dan reoliad 5 ac mae'n cynnwys y telerau a'r amodau y mae'r gymeradwyaeth honno wedi'i rhoi odanynt ac mae "cymeradwyo" ("*approve*") ac "a gymeradwywyd" ("*approved*") i'w dehongli yn unol â hynny;

ystyr "cwch pysgota Cymunedol" ("*Community fishing vessel*") yw cwch pysgota sy'n cwhwfan baner Aelod-wladwriaeth o'r Gymuned Ewropeaidd ac a gofrestrwyd yno;

ystyr "cymorth ariannol" ("*financial assistance*") yw unrhyw swm a dalwyd neu sy'n daladwy ar ffurf grant neu gymorth Cymunedol o dan y Rheoliadau hyn;

ystyr "cymorth Cymunedol" ("*Community aid*") yw cymorth tuag at wariant cymwys sydd ar gael o Gronfa Pysgodfeydd Ewrop ac sy'n daladwy yn unol â Rheoliad y Cyngor 1198/2006 a Rheoliad y Comisiwn 498/2007;

ystyr "dogfennau perthnasol" ("*relevant documents*") yw unrhyw dderbynneb, anfoneb, cyfrif, lluniad, plan, manyleb dechnegol neu ddogfen arall sy'n ymwneud â'r gweithrediad a gymeradwywyd;

Title, application and commencement

1. The title of these Regulations is the European Fisheries Fund (Grants) (Wales) Regulations 2009. They apply in relation to Wales and come into force on 18 March 2009.

Interpretation

2.—(1) In these Regulations, unless the context requires otherwise—

"application" ("*cais*") means an application for payment of financial assistance under regulation 3(1), and "applicant" ("*ceisydd*") is to be construed accordingly;

"approval" ("*cymeradwyaeth*") means an approval granted under regulation 5 and includes the terms and conditions subject to which such approval has been given, and "approve" ("*cymeradwyo*") and "approved" ("*a gymeradwywyd*") are to be construed accordingly;

"approved operation" ("*gweithrediad a gymeradwywyd*") means a relevant operation which the Welsh Ministers have approved in writing;

"authorised officer" ("*swyddog awdurdodedig*") means a person authorised in writing to be an officer for the purposes of these Regulations by the Welsh Ministers, and includes any duly appointed official of the Commission who accompanies such an authorised officer;

"beneficiary" ("*buddiolwr*") means a person whose application for financial assistance has been approved, and "beneficiaries" ("*buddiolwyr*") will be construed accordingly;

"the Commission" ("*y Comisiwn*") means the Commission of the European Communities;

"Community aid" ("*cymorth Cymunedol*") means aid towards eligible expenditure available from the European Fisheries Fund and payable in accordance with Council Regulation 1198/2006 and Commission Regulation 498/2007;

"Community fishing vessel" ("*cwch pysgota Cymunedol*") means a fishing boat flying the flag of and registered in a Member State of the European Community;

"Council Regulation 1198/2006" ("*Rheoliad y Cyngor 1198/2006*") means Council Regulation (EC) No. 1198/2006 of 27 July 2006 on the European Fisheries Fund (1);

(1) OJ No. L223, 15.8.2006, p.1.

ystyr "grant" ("*grant*") yw grant tuag at wariant cymwys sy'n daladwy o dan y Rheoliadau hyn yn ychwanegol at unrhyw gymorth Cymunedol;

ystyr "gwariant cymwys" ("*eligible expenditure*") yw gwariant a dynnwyd neu sydd i'w dynnu mewn cysylltiad â gweithrediad a gymeradwywyd ac y mae Gweinidogion Cymru wedi'i gymeradwyo at ddibenion cael cymorth ariannol o dan reoliad 5;

ystyr "gweithfeydd" ("*works*") yw unrhyw adeiladwaith, harbwr neu weithfeydd adeiladu eraill, wedi'u cwblhau neu beidio, y mae cymorth ariannol wedi'i hawlio neu wedi'i dalu ar eu cyfer;

ystyr "gweithrediad a gymeradwywyd" ("*approved operation*") yw gweithrediad perthnasol y mae Gweinidogion Cymru wedi'i gymeradwyo yn ysgrifenedig;

ystyr "gweithrediad perthnasol" ("*relevant operation*") yw buddsoddiad, prosiect neu weithred sy'n gymwys i gael cymorth Cymunedol;

ystyr "LIBOR" ("*LIBOR*") mewn perthynas ag unrhyw ddiwrnod penodol yw'r gyfradd a gynigir rhwng banciau Llundain â'i gilydd am gyfnod o dri mis mewn sterling sydd mewn grym ar y diwrnod hwnnw fel yr hysbysodd Banc Lloegr Weinidogion Cymru ohoni, wedi'i thalgrynnu os oes angen hynny i ddau bwynt degol;

ystyr "offer perthnasol" ("*relevant equipment*") yw unrhyw beirianwaith, peiriannau neu offer eraill y mae cymorth ariannol ar eu cyfer wedi'i hawlio neu wedi'i dalu;

ystyr "Rheoliad y Comisiwn 498/2007" ("*Commission Regulation 498/2007*") yw Rheoliad y Comisiwn (EC) Rhif 498/2007 dyddiedig 26 Mawrth 2007 sy'n gosod rheolau manwl ar gyfer gweithredu Rheoliad y Cyngor (EC) Rhif 1198/2006 ar Gronfa Pysgodfeydd Ewrop(1);

ystyr "Rheoliad y Cyngor 1198/2006" ("*Council Regulation 1198/2006*") yw Rheoliad y Cyngor (EC) Rhif 1198/2006 dyddiedig 27 Gorffennaf 2006 ar Gronfa Pysgodfeydd Ewrop (2); ac

ystyr "swyddog awdurdodedig" ("*authorised officer*") yw person a awdurdodwyd yn ysgrifenedig gan Weinidogion Cymru i fod yn swyddog at ddibenion y Rheoliadau hyn, ac mae'n cynnwys unrhyw swyddog o'r Comisiwn a benodwyd yn briodol sy'n dod gyda'r cyfryw swyddog awdurdodedig.

(2) Mae i ymadroddion a ddefnyddir yn y Rheoliadau hyn sy'n ymddangos neu y cyfeirir atynt yn Rheoliad y Cyngor 1198/2006 neu yn Rheoliad y Comisiwn 498/2007 ac nas diffinnir yn y rheoliad hwn,

"Commission Regulation 498/2007" ("*Rheoliad y Comisiwn 498/2007*") means Commission Regulation (EC) No. 498/2007 of 26 March 2007 laying down detailed rules for the implementation of Council Regulation (EC) No. 1198/2006 on the European Fisheries Fund (1);

"eligible expenditure" ("*gwariant cymwys*") means expenditure which is incurred or to be incurred in connection with an approved operation and which the Welsh Ministers have approved for the purpose of receiving financial assistance under regulation 5;

"financial assistance" ("*cymorth ariannol*") means any amount paid or payable by way of grant or Community aid under these Regulations;

"grant" ("*grant*") means a grant towards eligible expenditure payable under these Regulations in addition to any Community aid;

"LIBOR" ("*LIBOR*"), in relation to any particular day, means the sterling three month London interbank offered rate in force for that day as notified to the Welsh Ministers by the Bank of England, rounded if necessary to two decimal places;

"relevant conditions" ("*amodau perthnasol*") means any conditions relating to the approval of an application or the making of a payment of any financial assistance which have been notified to a beneficiary under regulations 5(3)(b) or 7;

"relevant documents" ("*dogfennau perthnasol*") means any receipt, invoice, account, drawing, plan, technical specification or other document relating to the approved operation;

"relevant equipment" ("*offer perthnasol*") means any plant, machinery or other equipment for which financial assistance has been claimed or paid;

"relevant operation" ("*gweithrediad perthnasol*") means an investment, project or action which is eligible for Community aid; and

"works" ("*gweithfeydd*") means any construction, harbour or other building works, whether completed or not, for which financial assistance has been claimed or paid.

(2) Expressions used in these Regulations which appear or are referred to in Council Regulation 1198/2006 or Commission Regulation 498/2007 and which are not defined in this regulation have, unless

(1) OJ Rhif L120, 10.5.2007, t.1.

(2) OJ Rhif L223, 15.8.2006, t.1.

(1) OJ No. L120, 10.5.2007, p.1.

yr un ystyr yn y Rheoliadau hyn ag sydd iddynt yn y ddeddfwriaeth honno, onid yw'r cyd-destun yn mynnu fel arall.

(3) Mae unrhyw gyfeiriad yn y Rheoliadau hyn at Reoliad y Cyngor 1198/2006 neu Reoliad y Comisiwn 498/2007 yn gyfeiriad at yr offerynnau hynny fel y'u diwygiwyd o bryd i'w gilydd.

(4) Mae unrhyw gyfeiriad yn y Rheoliadau hyn at reoliad â rhif yn gyfeiriad at y rheoliad sy'n dwyn y rhif hwnnw yn y Rheoliadau hyn, onid yw'r cyd-destun yn mynnu fel arall.

(5) Mae unrhyw gyfeiriad yn y Rheoliadau hyn at unrhyw beth a wneir yn ysgrifenedig neu a gynhyrchir ar ffurf ysgrifenedig yn cynnwys cyfeiriad at gyfathrebiad electronig, fel y'i diffinir yn Neddf Cyfathrebu Electronig 2000(1), a gafodd ei recordio ac y mae modd o ganlyniad ei atgynhyrchu.

Cymorth ariannol

3.—(1) Yn ddarostyngedig i ddarpariaethau Rheoliad y Cyngor 1198/2006, Rheoliad y Comisiwn 498/2007 a'r Rheoliadau hyn, caiff Gweinidogion Cymru dalu cymorth Cymunedol ac, os ydynt yn penderfynu felly, grant i unrhyw berson—

(a) sydd wedi gwneud cais, yn unol â rheoliad 4, er mwyn cael cymorth ariannol o'r fath, am gymeradwyaeth o dan reoliad 5 o—

- (i) gweithrediad perthnasol; a
- (ii) gwariant a dynnir neu sydd i'w dynnu mewn cysylltiad â'r gweithrediad hwnnw; a

(b) y maent wedi cymeradwyo ei gais.

(2) Wrth benderfynu o dan baragraff (1)—

- (a) a ddylid talu grant yn ychwanegol at gymorth Cymunedol; a
- (b) swm unrhyw grant o'r fath,

rhaid i Weiniogion Cymru roi sylw i ofynion Rheoliad y Cyngor 1198/2006 a Rheoliad y Comisiwn 498/2007 ac, yn benodol, i'r terfynau ar gyfanswm cyfranogiad ariannol y Wladwriaeth (ar lefel genedlaethol, rhanbarthol ac arall) fel y'u nodir yn Atodiad II i Reoliad y Cyngor 1198/2006.

Ceisiadau

4.—(1) Rhaid i geisiadau—

- (i) cael eu gwneud yn y fath ffurf a dull;
- (ii) cael eu gwneud ar y fath adeg;
- (iii) cynnwys y fath wybodaeth; a
- (iv) cael eu hanfon i'r fath gyfeiriad,

ag y dichon Gweinidogion Cymru ofyn amdanynt o bryd i'w gilydd.

(1) 2000 p.7.

the context otherwise requires, the same meaning in these Regulations as in that legislation.

(3) Any reference in these Regulations to Council Regulation 1198/2006 or Commission Regulation 498/2007 is a reference to those instruments as amended from time to time.

(4) Any reference in these Regulations to a numbered regulation is, unless the context otherwise requires, to be construed as a reference to the regulation so numbered in these Regulations.

(5) Any reference in these Regulations to anything done in writing or produced in written form includes a reference to an electronic communication, as defined in the Electronic Communications Act 2000(1), which has been recorded and is consequently capable of being reproduced.

Financial assistance

3.—(1) Subject to the provisions of Council Regulation 1198/2006, Commission Regulation 498/2007 and these Regulations, the Welsh Ministers may pay Community aid and, if they so determine, a grant to any person—

(a) who has applied, in accordance with regulation 4, for the purpose of obtaining such financial assistance, for approval under regulation 5 of—

- (i) a relevant operation; and
- (ii) expenditure incurred or to be incurred in connection with that operation; and

(b) whose application they have approved.

(2) In determining under paragraph (1)—

- (a) whether to pay a grant in addition to Community aid; and
- (b) the amount of any such grant,

the Welsh Ministers must have regard to the requirements of Council Regulation 1198/2006 and Commission Regulation 498/2007 and, in particular, the limits on total State financial participation (national, regional and other) as set out in Annex II to Council Regulation 1198/2006.

Applications

4.—(1) Applications must—

- (i) be made in such form and manner;
- (ii) be made at such time;
- (iii) include such information; and
- (iv) be delivered to such address,

as the Welsh Ministers may from time to time require.

(1) 2000 c.7.

(2) Rhaid i geiswyr ddarparu'r fath wybodaeth bellach a'r fath ddogfennau pellach sy'n ymwneud â'r cais ag y dichon Gweinidogion Cymru ofyn amdanynt.

Penderfynu ar geisiadau

5.—(1) Yn ddarostyngedig i Reoliad y Cyngor 1198/2006 a Rheoliad y Comisiwn 498/2007 caiff Gweinidogion Cymru —

- (a) gwrthod cymeradwyo cais am gymorth ariannol; neu
- (b) ei gymeradwyo yn gyfan gwbl neu'n rhannol a hynny naill ai yn ddiamed neu o dan unrhyw amodau y maent yn penderfynu arnynt.

(2) Caiff Gweinidogion Cymru amrywio cymeradwyaeth o dro i dro drwy ddiwygio unrhyw amodau y mae'r gymeradwyaeth wedi'i rhoi odanynt neu drwy ychwanegu amodau.

(3) Rhaid i Weinidogion Cymru—

- (a) hysbysu ceiswyr yn ysgrifenedig o'u penderfyniad ar y cais hwnnw;
- (b) hysbysu buddiolwyr o unrhyw amodau y mae cymeradwyaeth wedi'i rhoi odanynt neu sydd wedi'u hamrywio yn unol â'r rheoliad hwn.

(4) Os bydd Gweinidogion Cymru yn hysbysu ceisydd eu bod wedi gwrthod cymeradwyo cais neu'n hysbysu buddiolwr eu bod wedi rhoi cymeradwyaeth yn ddarostyngedig i amodau neu wedi amrywio telerau cymeradwyaeth sydd eisoes yn bodoli, rhaid iddynt roi i bob ceisydd neu fuddiolwr o'r fath—

- (a) rhesymau ysgrifenedig dros eu penderfyniad; a
- (b) cyfle i gyflwyno sylwadau mewn perthynas â'r penderfyniad hwnnw o fewn unrhyw amser sydd ym marn Gweinidogion Cymru yn rhesymol ac sydd wedi'i hysbysu i'r ceisydd neu'r buddiolwr.

(5) Rhaid i Weinidogion Cymru—

- (a) ystyried unrhyw sylwadau a dderbyniwyd o dan baragraff (4);
- (b) gwneud penderfyniad a fydd naill ai yn cadarnhau eu penderfyniad o dan baragraff (4) neu yn gosod penderfyniad gwahanol yn ei le; ac
- (c) hysbysu'r ceisydd neu'r buddiolwr yn ysgrifenedig yn unol â hynny.

Cymhwysra a hawliadau am daliad o gymorth ariannol

6.—(1) Yn ddarostyngedig i baragraff (2) ac i reoliad 14, bydd buddiolwr yn gymwys i gael taliad cymorth ariannol.

(2) Ni thelir unrhyw gymorth ariannol mewn perthynas â chais a gymeradwywyd oni bai bod y canlynol wedi'u rhoi i Weinidogion Cymru—

(2) Applicants must furnish further information and documents relating to the application as the Welsh Ministers may require.

Determination of applications

5.—(1) Subject to Council Regulation 1198/2006 and Commission Regulation 498/2007 the Welsh Ministers may—

- (a) refuse to approve an application for financial assistance; or
- (b) approve it in whole or in part, either unconditionally or subject to such conditions as they may determine.

(2) The Welsh Ministers may at any time vary an approval by amending any conditions to which it has been made subject, or by adding conditions.

(3) The Welsh Ministers must notify—

- (a) applicants in writing of their decision in respect of that application;
- (b) beneficiaries of any conditions to which their approval has been made subject or which have been varied under this regulation.

(4) Where the Welsh Ministers notify an applicant that they have refused to approve an application, or a beneficiary that they have granted an approval subject to conditions, or have varied the terms of an existing approval, they must give such applicant or beneficiary—

- (a) written reasons for their decision; and
- (b) an opportunity to make representations in relation to that decision within such reasonable time as is notified to the applicant or beneficiary by the Welsh Ministers.

(5) The Welsh Ministers must—

- (a) consider any representations received under paragraph (4);
- (b) make a decision which will either confirm their decision under paragraph (4) or substitute a different decision; and
- (c) notify the applicant or beneficiary in writing accordingly.

Eligibility and claims for payment of financial assistance

6.—(1) Subject to paragraph (2) and to regulation 14, a beneficiary will be eligible for payment of financial assistance.

(2) No financial assistance will be paid in respect of an approved application unless the Welsh Ministers have been supplied with—

- (a) tystiolaeth foddhaol bod swm y gwariant y gwneir cais am gymorth ariannol ar ei gyfer wedi'i dynnu gan y buddiolwr, gan gynnwys manylion unrhyw ddisgownt a gafodd y buddiolwr; a
- (b) tystiolaeth foddhaol bod y gweithrediad a gymeradwywyd y mae'r cais yn gysylltiedig ag ef wedi'i gyflawni'n briodol.

Dull talu'r cymorth ariannol

7. Gall taliadau cymorth ariannol gael eu gwneud—

- (a) ar y fath adeg neu fesul unrhyw randaliadau ar unrhyw gyfnodau neu adegau; a
- (b) yn ddarostyngedig i'r fath amodau,

ag y caiff Gweinidogion Cymru benderfynu'n rhesymol arnynt a rhaid i unrhyw amodau mewn perthynas ag unrhyw daliad gael eu hysbysu i'r buddiolwr yn ysgrifenedig.

Ymrwymadau

8. Rhaid i fuddiolwr roi unrhyw ymrwymadau y mae Gweinidogion Cymru yn ystyried eu bod yn briodol at ddibenion y Rheoliadau hyn.

Gwybodaeth

9.—(1) Rhaid i fuddiolwr roi i Weiniogion Cymru unrhyw wybodaeth am weithrediad a gymeradwywyd y caiff Gweinidogion Cymru ofyn yn rhesymol amdani o dro i dro.

(2) Os yw Gweinidogion Cymru yn gofyn am wybodaeth o dan baragraff (1), rhaid i'r buddiolwr roi'r wybodaeth honno i Weiniogion Cymru o fewn y fath gyfnod ag y dichon Gweinidogion Cymru benderfynu'n rhesymol arno.

Cofnodion

10.—(1) Rhaid i fuddiolwr—

- (a) cadw cofnod o bob dim a dderbynnir a phob gwariant a dynnir mewn cysylltiad â gweithrediad a gymeradwywyd; a
- (b) tra bydd gweithrediad a gymeradwywyd yn cael ei gyflawni ac ar ôl cwblhau'r gweithrediad a gymeradwywyd ac wedyn drwy gydol y cyfnod rheoli, cadw unrhyw gofnod o'r fath ynghyd ag unrhyw ddogfennau perthnasol sy'n ymwneud â'r gweithrediad a gymeradwywyd, ac eithrio i'r graddau y mae swyddog awdurdodedig wedi mynd â hwy a'u cadw o dan reoliad 12(6).

(2) Yn ddarostyngedig i baragraff (3), y "cyfnod rheoli" yw—

- (a) cyfnod o chwe blynedd yn dechrau gyda

- (a) satisfactory evidence that the amount of expenditure for which financial assistance is claimed has been incurred by the beneficiary, including details of any discount received by the beneficiary; and
- (b) satisfactory evidence that the approved operation to which the application relates has been properly executed.

Method of payment of financial assistance

7. Payments by way of financial assistance may be made—

- (a) at such time, or by such instalments at such intervals or time; and
- (b) subject to such conditions,

as the Welsh Ministers may reasonably determine, and any conditions in relation to any payment must be notified to the beneficiary in writing.

Undertakings

8. A beneficiary must give the Welsh Ministers such undertakings as the Welsh Ministers consider appropriate for the purposes of these Regulations.

Information

9.—(1) A beneficiary must supply the Welsh Ministers with such information in relation to an approved operation as the Welsh Ministers may from time to time reasonably require.

(2) Where the Welsh Ministers require information under paragraph (1), the beneficiary must supply them with that information within such period as the Welsh Ministers may reasonably determine.

Records

10.—(1) A beneficiary must—

- (a) keep a record of all receipts and expenditure incurred in connection with an approved operation; and
- (b) during the carrying out and after completion of the approved operation for the duration of the control period, retain such record together with any relevant documents relating to the approved operation, except to the extent that an authorised officer has removed and retained any of the same under regulation 12(6).

(2) Subject to paragraph (3), "the control period" is—

- (a) the period of six years commencing with the

thaliad olaf y cymorth ariannol mewn perthynas â'r gweithrediad a gymeradwywyd; neu

- (b) unrhyw gyfnod pellach y tu hwnt i'r cyfnod hwnnw o chwe blynedd y mae Gweinidogion Cymru wedi'i hysbysu'r buddiolwr ohono yn ysgrifenedig ar unrhyw adeg cyn i'r cyfnod hwnnw o chwe blynedd ddod i ben.

(3) Wrth benderfynu mewn unrhyw achos ar ba ddyddiad y daw'r cyfnod rheoli i ben, rhaid peidio â chymryd unrhyw amser rhwng cychwyn unrhyw achos a ddygir o dan reoliad 13 i adennill unrhyw gymorth ariannol a dalwyd mewn perthynas â'r gweithrediad a gymeradwywyd a phenderfyniad terfynol yr achos hwnnw.

(4) Pan fo buddiolwr, yng nghwrs arferol ei fusnes, yn trosglwyddo unrhyw ddogfen wreiddiol y cyfeirir ati ym mharagraff (1) i berson arall, rhaid i'r buddiolwr ddal gafael ar gopi o'r ddogfen honno hyd ddiwedd y cyfnod rheoli perthnasol.

Cymorth i swyddogion awdurdodedig

11. Rhaid i unrhyw fuddiolwr ac unrhyw gyflogai, gwas neu asiant i unrhyw fuddiolwr roi unrhyw gymorth i swyddog awdurdodedig y mae'r swyddog hwnnw yn gofyn yn rhesymol amdano er mwyn arfer unrhyw bwer a roddir iddo gan reoliad 12.

Pwerau swyddogion awdurdodedig

12.—(1) Ar ôl cyflwyno dogfen sydd wedi'i dilysu'n briodol ac sy'n dangos ei awdurdod, os gofynnir iddo wneud hynny, caiff swyddog awdurdodedig ar bob adeg resymol arfer y pwerau a bennir yn y rheoliad hwn er mwyn—

- (a) dilysu cywirdeb unrhyw wybodaeth neu dystiolaeth a geir mewn cais, a gynhwysir gyda chais neu a roddir o dan reoliad 6;
- (b) darganfod a ddylai unrhyw wariant y gwneir cais am gymorth ariannol mewn perthynas ag ef gael ei gymeradwyo, ac i ba raddau;
- (c) darganfod a gydymffurfwyd ag unrhyw ymrwymadau a roddwyd gan fuddiolwr o dan reoliad 8 neu ag unrhyw amod perthnasol, ac i ba raddau;
- (ch) darganfod a oes unrhyw swm o gymorth ariannol yn daladwy, neu a ddylai gael ei gwtogi, ei ddal yn ôl neu ei adennill, ac i ba raddau, o dan reoliad 13;
- (d) darganfod a oes tramgwydd o dan reoliad 16 wedi'i gyflawni neu wrthi'n cael ei gyflawni; neu
- (dd) darganfod fel arall, yn unol ag Erthygl 57 o Reoliad y Cyngor 1198/2006, a yw'r cymorth Cymunedol dan reolaeth briodol ac yn cael ei reoli'n briodol;

last payment of financial assistance in respect of the approved operation; or

- (b) such further period beyond the end of that six year period as has been notified in writing by the Welsh Ministers to the beneficiary at any time before the expiry of that six year period.

(3) In determining in any case the date on which the control period expires, no account will be taken of any time between the commencement and final determination of any proceedings brought under regulation 13 for the recovery of any financial assistance paid in respect of that approved operation.

(4) Where, in the normal course of business, a beneficiary transfers the original of any document referred to in paragraph (1) to another person, the beneficiary must retain a copy of that document until the end of the relevant control period.

Assistance to authorised officers

11. Any beneficiary and any employee, servant or agent of a beneficiary must give to an authorised officer such assistance as that officer may reasonably require to exercise any power conferred on the officer by regulation 12.

Powers of authorised officers

12.—(1) An authorised officer may, at all reasonable times and on production, if requested to do so, of a duly authenticated document showing the authority of the officer, exercise the powers specified in this regulation for the purposes of—

- (a) verifying the accuracy of any information or evidence contained in or included with an application or supplied under regulation 6;
- (b) ascertaining whether and to what extent any expenditure for which financial assistance is claimed should be approved;
- (c) ascertaining whether and to what extent any undertaking given by a beneficiary under regulation 8 or any relevant condition has been complied with;
- (d) ascertaining whether and to what extent any amount of financial assistance is payable, or should be reduced, withheld or recovered under regulation 13;
- (e) ascertaining whether an offence under regulation 16 has been or is being committed; or
- (f) otherwise ascertaining, pursuant to Article 57 of Council Regulation 1198/2006, whether Community aid is being properly managed and controlled;

ac mae'r cyfryw bwerau yn arferadwy at y dibenion hyn ar sail dewis ar hap, gwirio dirybudd neu samplu yn ogystal â thrwy gyfeirio at amgylchiadau penodol achosion unigol neu eu hamgylchiadau tybiedig.

(2) Yn ddarostyngedig i baragraff (3), caiff swyddog awdurdodedig fynd i mewn i unrhyw fangre sydd yn fangre berthnasol, neu y cred y cyfryw swyddog gydag achos rhesymol ei bod yn fangre berthnasol.

(3) Os mai fel ty annedd yn unig y defnyddir y fangre, dim ond ar ôl rhoi hysbysiad rhesymol i holl breswylwyr y ty annedd hwnnw o'r bwriad i wneud hynny y caniateir defnyddio'r pŵer a roddir gan baragraff (2).

(4) Caiff unrhyw swyddog awdurdodedig sydd wedi mynd i mewn i unrhyw fangre yn unol â pharagraff (2) —

- (a) arolygu'r fangre honno;
- (b) arolygu unrhyw offer sy'n offer perthnasol, neu y mae gan y swyddog hwnnw achos rhesymol dros gredu ei fod yn offer perthnasol; ac
- (c) arolygu unrhyw ddogfennau yn y fangre honno sy'n ddogfennau perthnasol, neu y mae gan y swyddog hwnnw achos rhesymol dros gredu eu bod yn ddogfennau perthnasol.

(5) Caiff swyddog awdurdodedig sy'n mynd i mewn i unrhyw fangre yn rhinwedd y rheoliad hwn fynd ag unrhyw berson arall y mae'n credu fod ei angen a bydd paragraffau (2), (4), (6) a (7) a rheoliad 11 yn gymwys mewn perthynas â'r person arall hwnnw wrth iddo weithredu o dan gyfarwyddyd y swyddog fel pe bai yn swyddog awdurdodedig.

(6) Caiff swyddog awdurdodedig—

- (a) ei gwneud yn ofynnol i fuddiolwr neu i gyflogai, gwas neu asiant i fuddiolwr gyflwyno unrhyw ddogfennau perthnasol a rhoi unrhyw wybodaeth ychwanegol sydd ym meddiant y person hwnnw neu o dan ei reolaeth ac sy'n ymwneud â chais neu â gweithrediad a gymeradwywyd y bydd y swyddog yn gofyn yn rhesymol amdanynt;
- (b) arolygu unrhyw ddogfennau o'r fath ac, os oes unrhyw ddogfennau o'r fath yn cael eu cadw drwy gyfrwng cyfrifiadur, mynd at unrhyw gyfrifiadur ac unrhyw offer neu ddeunyddiau cysylltiedig sy'n cael neu sydd wedi cael eu defnyddio mewn cysylltiad â'r dogfennau hynny, a'u harolygu ac edrych i weld sut y maent yn gweithio;
- (c) ei gwneud yn ofynnol bod copïau o unrhyw ddogfennau perthnasol, neu o ddarnau ohonynt, yn cael eu cyflwyno; neu
- (ch) cymryd a dal gafael ar, am gyfnod rhesymol, unrhyw ddogfen berthnasol o'r fath y mae ganddo reswm dros gredu y gall fod ei hangen yn dystiolaeth mewn achos o dan y Rheoliadau hyn neu y gall fod yn ofynnol i Weinidogion

and such powers are exercisable for those purposes on a random, spot-check or sample basis as well as by reference to the particular circumstances or suspected circumstances of individual cases.

(2) Subject to paragraph (3), an authorised officer may enter upon any premises which are, or which such officer has reasonable cause to believe are, relevant premises.

(3) The power conferred by paragraph (2) may be exercised in relation to premises used as a dwelling house only where reasonable notice of the intended exercise of the power has been given to all residents of that dwelling house.

(4) Any authorised officer who has entered any premises in accordance with paragraph (2) may inspect—

- (a) those premises;
- (b) any equipment which is, or which such officer has reasonable cause to believe is, relevant equipment; and
- (c) any documents on those premises which are, or which such officer has reasonable cause to believe are, relevant documents.

(5) An authorised officer entering any premises by virtue of this regulation may be accompanied by such other person as the officer considers necessary, and paragraphs (2), (4), (6) and (7) and regulation 11 apply in relation to such other person when acting under the instructions of the officer as if they were authorised officers.

(6) An authorised officer may—

- (a) require any beneficiary or an employee, servant or agent of a beneficiary to produce any relevant documents and to supply such additional information in the possession of that person or under their control relating to an application or an approved operation as the officer may reasonably request;
- (b) inspect any such documents and, where any such documents are kept by means of a computer, have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been used in connection with those documents;
- (c) require that copies of, or extracts from, any relevant documents be produced; or
- (d) remove and retain for a reasonable period any such relevant document which the officer has reason to believe may be required as evidence in proceedings under these Regulations or which the Welsh Ministers may be required to

Cymru drefnu ei bod ar gael i'r Comisiwn yn unol ag Erthygl 87 o Reoliad 1198/2006;

ac, os oes unrhyw ddogfen o'r fath yn cael ei chadw drwy gyfrwng cyfrifiadu, ei gwneud yn ofynnol iddi gael ei chyflwyno ar ffurf a all gael ei chymryd i ffwrdd, a honno'n ffurf y mae'n weladwy ac yn ddarllenadwy ynddi.

(7) Ni fydd swyddog awdurdodedig yn atebol mewn unrhyw achos llys am unrhyw beth a wnaed drwy arfer honedig o'r pwerau a roddwyd i swyddog awdurdodedig gan y Rheoliadau hyn os bydd y llys wedi'i fodloni—

- (a) bod yr hyn a wnaed wedi ei wneud yn ddidwyll;
- (b) bod yna seiliau rhesymol dros ei wneud; ac
- (c) ei bod wedi ei gwneud gyda gofal a medr rhesymol.

(8) Yn y rheoliad hwn—

mae "mangre" ("*premises*") yn cynnwys unrhyw gwch, man, cerbyd, ôl-gerbyd neu gynhwysydd; ac

ystyr "mangre berthnasol" ("*relevant premises*") yw unrhyw fangre y mae gweithrediad a gymeradwywyd yn ymwneud â hi neu lle cedwir dogfennau perthnasol neu offer perthnasol neu lle mae gan swyddog awdurdodedig seiliau rhesymol dros gredu y gall fod dogfennau neu offer o'r fath yn cael eu cadw ynddi.

Cwtogi cymorth ariannol, ei ddal yn ôl a'i adennill

13.—(1) Yn ddarostyngedig i ddarpariaethau'r rheoliad hwn, os yw'n ymddangos i Weinidogion Cymru, ar unrhyw adeg ar ôl iddynt gymeradwyo cais—

- (a) na chydymffurfiwyd, yn gyfan gwbl neu'n rhannol ag unrhyw amod perthnasol;
- (b) nad oedd y cais a gymeradwywyd felly, neu unrhyw ran ohono, yn gais yr oedd y buddiolwr yn gymwys i'w wneud;
- (c) bod y buddiolwr, neu gyflogai, gwas neu asiant i fuddiolwr—
 - (i) wedi methu â chydymffurfio â rheoliad 9, 10, 11 neu 12(6);
 - (ii) wedi rhwystro unrhyw swyddog awdurdodedig yn fwriadol wrth iddo arfer ei bwerau o dan reoliad 12; neu
 - (iii) wedi rhoi gwybodaeth am unrhyw fater sy'n berthnasol i roi'r gymeradwyaeth neu i wneud taliad sy'n berthnasol i'r gymeradwyaeth sy'n ffug neu'n gamarweiniol mewn ystyr berthnasol;
- (ch) bod y gweithrediad a gymeradwywyd wedi'i gychwyn cyn y dyddiad y rhoddodd Gweinidogion Cymru ganiatâd ysgrifenedig iddo gychwyn;

make available to the Commission pursuant to Article 87 of Regulation 1198/2006;

and, where any such document is kept by means of a computer, require it to be produced in a form in which it may be taken away and in which it is visible and legible.

(7) An authorised officer will not be liable in any proceedings for anything done in purported exercise of the powers conferred on an authorised officer by these Regulations if the court hearing such proceedings is satisfied that—

- (a) the act was done in good faith;
- (b) there were reasonable grounds for doing it; and
- (c) it was done with reasonable skill and care.

(8) In this regulation—

"premises" ("*mangre*") includes any vessel, place, vehicle, trailer or container; and

"relevant premises" ("*mangre berthnasol*") means any premises to which an approved operation relates or in which relevant documents or relevant equipment are retained or in which an authorised officer has reasonable grounds to believe such documents or equipment may be retained.

Reduction, withholding and recovery of financial assistance

13.—(1) Subject to the provisions of this regulation if, at any time after the Welsh Ministers have approved an application, it appears to them that—

- (a) any relevant condition has not been complied with in whole or in part;
- (b) the application so approved or any part of it was not an application which the beneficiary was eligible to make;
- (c) the beneficiary or an employee, servant or agent of a beneficiary—
 - (i) has failed to comply with regulation 9, 10, 11 or 12(6);
 - (ii) has intentionally obstructed any authorised officer in the exercise of their powers under regulation 12; or
 - (iii) has given information on any matter relevant to the giving of the approval or the making of a payment relevant to the approval which is false or misleading in a material respect;
- (d) the approved operation was commenced before the date on which the Welsh Ministers gave written permission to do so;

- (d) nad yw'r gweithrediad a gymeradwywyd y tynnwyd y gwariant mewn perthynas ag ef wedi'i gyflawni neu ei fod heb ei gyflawni'n briodol neu yn unol â'r gymeradwyaeth sy'n ymwneud ag ef;
- (dd) bod y gweithrediad a gymeradwywyd wedi'i ohirio neu yn cael ei ohirio yn afresymol y tu hwnt i'r terfynau amser a nodwyd yn yr hysbysiad o gymeradwyaeth neu ei fod yn annhebyg o gael ei gwblhau;
- (e) na chydymffurfiwyd ag unrhyw ymrwymiad a roddwyd gan y buddiolwr o dan reoliad 8;
- (f) bod y Comisiwn wedi penderfynu cwtogi neu atal dros dro gymorth Cymunedol yn unol ag Erthygl 89 o Reoliad y Cyngor 1198/2006;
- (ff) mewn unrhyw achos o gymorth ariannol ar gyfer adeiladu neu foderneiddio cwch pysgota, bod unrhyw un o'r digwyddiadau a bennir ym mharagraff (2) wedi digwydd cyn pen deng mlynedd ar ôl cwblhau adeiladu'r cwch neu bum mlynedd ar ôl cwblhau moderneiddio'r cwch;
- (g) mewn unrhyw achos o gymorth ariannol i unrhyw weithrediad perthnasol heblaw adeiladu neu foderneiddio cwch pysgota, bod unrhyw un o'r digwyddiadau a bennir ym mharagraff (3) wedi digwydd cyn pen chwe blynedd o brynu'r offer perthnasol neu cyn pen deng mlynedd o brynu'r fangre neu gwblhau'r gweithfeydd;
- (ng) mae'r cymorth ariannol yn dyblygu neu fe fyddai'n dyblygu cymorth a roddir neu a fydd yn cael ei roddi o gronfeydd y perir eu bod ar gael—
 - (i) gan y Cymunedau Ewropeaidd,
 - (ii) gan Weinidogion Cymru, neu
 - (iii) gan gorff sy'n arfer swyddogaethau cyhoeddus o fewn y Deyrnas Unedig;
- (h) mae'r buddiolwr wedi torri unrhyw ofyniad y mae'n ddarostyngedig iddo o dan y Rheoliadau hyn neu o dan Reoliad y Cyngor 1198/2006 neu Reoliad y Comisiwn 498/2007; neu
- (i) mae'r gweithrediad a gymeradwywyd yn ddarostyngedig i gosbau sy'n gymwys o dan Reoliad y Cyngor 1198/2006 neu Reoliad y Comisiwn 498/2007,
- (e) the approved operation for which the expenditure was incurred has not been carried out or has not been carried out properly or in accordance with the approval;
- (f) the approved operation has been or is being unreasonably delayed beyond the time limit set out in the notification of approval or is unlikely to be completed;
- (g) any undertaking given by the beneficiary under regulation 8 has not been complied with;
- (h) the Commission has decided pursuant to Article 89 of Council Regulation 1198/2006 to reduce or suspend Community aid;
- (i) in any case of financial assistance for the construction or modernisation of a fishing vessel, any of the events specified in paragraph (2) has occurred before ten years have elapsed from the date of completion of the construction, or five years have elapsed from the date of completion of modernisation, of the vessel;
- (j) in any case of financial assistance for any relevant operation other than for the construction or modernisation of a fishing vessel, any of the events specified in paragraph (3) has occurred before six years have elapsed from the date of purchase of the relevant equipment, or ten years have elapsed from the date of purchase of the premises or the completion of the works;
- (k) the financial assistance duplicates or would duplicate assistance provided or to be provided out of monies made available by—
 - (i) the European Communities,
 - (ii) the Welsh Ministers, or
 - (iii) a body exercising public functions within the United Kingdom;
- (l) the beneficiary is in breach of any requirement to which he or she is subject under these Regulations or under Council Regulation 1198/2006 or Commission Regulation 498/2007; or
- (m) the approved operation is subject to penalties applicable under Council Regulation 1198/2006 or Commission Regulation 498/2007,

caiff Gweinidogion Cymru ddirymu'r gymeradwyaeth yn gyfan gwbl neu'n rhannol neu caiff gwtogi neu ddal yn ôl unrhyw gymorth ariannol mewn perthynas â'r gweithrediad a gymeradwywyd ac, os oes taliad cymorth ariannol wedi'i wneud, caiff adennill, ar gais, fel dyled, swm sy'n gyfartal â'r cyfan neu ag unrhyw ran a benderfynir ganddynt o'r taliad sydd wedi'i wneud.

the Welsh Ministers may revoke the approval in whole or in part or reduce or withhold any financial assistance in respect of the approved operation and, where any such financial assistance has been paid, may recover on demand as a debt an amount equal to the financial assistance which has been so paid or such part of it as they determine.

(2) Dyma'r digwyddiadau y cyfeirir atynt ym mharagraff (1)(ff) —

- (a) colli'r cwch yn gyfan gwbl;
- (b) difrodi neu ddinistrio unrhyw offer perthnasol sy'n arwain at daliad o dan bolisi yswiriant neu dâl digolledu neu iawndal;
- (c) morgais ar y cwch (heblaw morgais sy'n cael ei greu i godi arian a ddefnyddir ar gyfer cost adeiladu neu foderneiddio'r cwch, sef morgais a gymeradwywyd gan Weinidogion Cymru cyn iddo gael ei wneud);
- (ch) defnyddio'r cwch yn bennaf at ddibenion heblaw'r rheini y cymeradwywyd cymorth ariannol ar ei gyfer;
- (d) gwaredu'r cwch neu unrhyw ran ohono, ei injan neu unrhyw ran ohoni neu unrhyw offer perthnasol neu offer neu gyfarpar arall a ddefnyddir ar y cwch neu mewn cysylltiad ag ef, boed drwy werthu neu drwy ddull arall; neu
- (dd) bod y cwch yn peidio â bod yn gwch pysgota Cymunedol.

(3) Dyma'r digwyddiadau y cyfeirir atynt ym mharagraff (1)(g)—

- (a) colli'r offer perthnasol yn gyfan gwbl;
- (b) difrodi neu ddinistrio unrhyw offer, unrhyw fangre, neu unrhyw weithfeydd perthnasol sy'n arwain at daliad o dan bolisi yswiriant neu dâl digolledu neu iawndal;
- (c) creu hawl mewn gwarant dros yr offer, y fangre neu'r gweithfeydd perthnasol (heblaw hawl mewn gwarant sy'n cael ei chreu er mwyn codi arian a ddefnyddir ar gyfer cost adeiladu neu foderneiddio'r offer, y fangre neu'r gweithfeydd perthnasol, sef hawl mewn gwarant a gymeradwywyd gan Weinidogion Cymru cyn iddi gael ei gwneud);
- (ch) defnyddio'r offer, y fangre neu'r gweithfeydd perthnasol yn bennaf at ddibenion heblaw'r dibenion y cymeradwywyd y cymorth ariannol mewn perthynas â hwy; neu
- (d) gwaredu'r offer, y fangre neu'r gweithfeydd perthnasol neu unrhyw ran ohonynt, boed drwy werthu neu drwy ddull arall.

(4) At ddibenion paragraff (1)(ng), mae swm yn dyblygu cymorth ariannol os yw'n cael ei dalu, neu pe byddai'n cael ei dalu, at unrhyw un o'r un dibenion.

(5) Os yw paragraff (1)(ff) neu (g) yn gymwys ac nad oes dim o'r is-baragraffau eraill ym mharagraff (1) yn gymwys, bydd yr uchafswm y caiff Gweinidogion Cymru ei adennill oddi ar fuddiolwr o dan y rheoliad hwn yn swm sy'n hafal i'r rhan o'r cyfnod o ddeng mlynedd, neu yn ôl fel y digwydd, o'r cyfnod o bum mlynedd neu chwe mlynedd sydd heb ddod i ben,

(2) The events referred to in paragraph (1)(i) are—

- (a) the total loss of the vessel;
- (b) the damage or destruction of any relevant equipment resulting in payment under an insurance policy or by way of compensation or damages;
- (c) a mortgage of the vessel (other than a mortgage created for the raising of money applied to the cost of construction or modernisation of the vessel, being a mortgage approved by the Welsh Ministers before it was made);
- (d) the use of the vessel primarily for purposes other than those for which financial assistance was approved;
- (e) a disposal whether by sale or otherwise of the vessel or any part of it, its engine or any part of it or any relevant equipment or other equipment or apparatus used on or in connection with the vessel; or
- (f) the vessel ceasing to be a Community fishing vessel.

(3) The events referred to in paragraph (1)(j) are—

- (a) the total loss of the relevant equipment;
- (b) the damage or destruction of any relevant equipment, premises, or works resulting in payment under an insurance policy or by way of compensation or damages;
- (c) the creation of a right in security over the relevant equipment, premises, or works (other than a right in security created for the raising of money applied to the cost of construction or modernisation of the relevant equipment, premises, or works, being a right in security approved by the Welsh Ministers before it was made);
- (d) the use of the relevant equipment, premises, or works primarily for purposes other than those in respect of which financial assistance was approved; or
- (e) a disposal whether by sale or otherwise of the relevant equipment, premises, or works or any part of them.

(4) For the purposes of paragraph (1)(k), a sum duplicates financial assistance if it is, or would be, paid for any of the same purposes.

(5) Where paragraph (1)(i) or (j) applies and none of the other sub-paragraphs of paragraph (1) apply, the maximum amount which the Welsh Ministers may recover from a beneficiary under this regulation is that proportion of the total payment of financial assistance which the unexpired part of the ten, or as the case may be, five or six year period bears to that period together

wedi'i gyfrifo fel swm cyfrannol o gyfanswm y taliad cymorth ariannol ynghyd â'r llog arno o dan reoliad 14.

(6) Cyn dirymu cymeradwyaeth yn gyfan gwbl neu'n rhannol neu ostwng neu ddal yn ôl unrhyw gymorth ariannol neu cyn gwneud hawliad o dan baragraff (1), rhaid i Weinidogion Cymru—

- (a) rhoi esboniad ysgrifenedig i'r buddiolwr o'r rhesymau dros y cam y bwriedir ei gymryd;
- (b) rhoi cyfle i'r buddiolwr gyflwyno sylwadau ysgrifenedig o fewn amser rhesymol; ac
- (c) ystyried unrhyw sylwadau.

Llog

14.—(1) Os yw Gweinidogion Cymru yn bwriadu adennill cymorth ariannol drwy hawliad yn gyfan gwbl neu'n rhannol yn unol â rheoliad 13, cânt hefyd adennill yn ychwanegol ato, y llog ar y swm hwnnw ar gyfradd o un y cant uwchlaw LIBOR wedi'i gyfrifo ar sail feunyddiol am y cyfnod sy'n dechrau—

- (a) mewn unrhyw achos y mae rheoliad 13(4) yn gymwys iddo, ar y dyddiad pan ddigwyddodd y digwyddiad dan sylw hyd ddyddiad yr adennill; neu
- (b) mewn unrhyw achos arall, ar y dyddiad y talwyd y cymorth ariannol,

hyd y dyddiad pan yw Gweinidogion Cymru yn adennill y swm.

(2) Mewn unrhyw achos ynglyn ag adennill llog o dan y Rheoliadau hyn, bydd tystysgrif a roddir gan Weinidogion Cymru i ddangos y gyfradd neu gyfraddau llog sy'n gymwys, swm y llog o'r fath sy'n adenilladwy a'r cyfnod y cyfrifir y llog ar ei gyfer yn dystiolaeth ddigamsyniol o'r materion hynny oni phrofir i'r gwrthwyneb.

Symiau sy'n daladwy i Weinidogion Cymru i'w hadennill fel dyled

15. Mewn unrhyw achos pan fo swm yn dod yn daladwy i Weinidogion Cymru yn rhinwedd y Rheoliadau hyn (neu yn rhinwedd camau a gymerir o dan y Rheoliadau hyn), mae'r cyfryw swm yn adenilladwy fel dyled.

Tramgwyddau a chosbau

16.—(1) Mae unrhyw berson sydd, er mwyn sicrhau cymorth ariannol iddo'i hun neu i unrhyw berson arall—

- (a) wrth roi unrhyw wybodaeth gan honni ei fod yn cydymffurfio â gofyniad a osodir gan neu o dan reoliad 4 neu 12(6)(a), yn fwriadol neu'n ddi-hid yn gwneud datganiad sy'n ffug neu'n gamarweiniol mewn manylyn perthnasol; neu
- (b) gan honni ei fod yn cydymffurfio â gofyniad a

with interest thereon under regulation 14.

(6) Before revoking an approval in whole or in part or reducing or withholding any financial assistance or making a demand under paragraph (1), the Welsh Ministers must—

- (a) give the beneficiary a written explanation of the reasons for the step proposed to be taken;
- (b) afford the beneficiary the opportunity of making written representations within a reasonable time; and
- (c) consider any representations.

Interest

14.—(1) Where the Welsh Ministers intend to recover on demand financial assistance in whole or in part in accordance with regulation 13, they may, in addition, recover interest on that amount at a rate of 1 per cent above LIBOR calculated on a daily basis for the period from—

- (a) in any case to which regulation 13(4) applies, the date when the event in question occurred until the date of recovery; or
- (b) in any other case, the date of payment of the financial assistance,

until the day on which the Welsh Ministers recover the amount.

(2) In any proceedings for recovery under these Regulations, a certificate issued by the Welsh Ministers showing the rate or rates of interest, the amount of such interest recoverable and the period for which interest is calculated is, unless the contrary is shown, conclusive of those matters.

Sums payable to the Welsh Ministers to be recovered as a debt

15. In any case where an amount falls to be paid to the Welsh Ministers by virtue of these Regulations (or by virtue of action taken under these Regulations), such amount is recoverable as a debt.

Offences and penalties

16.—(1) Any person, who for the purposes of obtaining financial assistance for themselves or any other person—

- (a) in furnishing any information in purported compliance with a requirement imposed by or under regulation 4 or 12(6)(a), knowingly or recklessly makes a statement which is false or misleading in a material particular; or
- (b) in purported compliance with a requirement

osodir o dan reoliad 4(2), neu 12(6)(a) neu (c) yn fwriadol neu'n ddi-hid yn cyflwyno dogfen sy'n ffug neu'n gamarweiniol mewn manylyn perthnasol,

yn euog o dramgwydd ac yn agored, o'i gollfarnu'n ddiannod, i ddirwy nad yw'n uwch na lefel 5 ar y raddfa safonol.

(2) Mae unrhyw berson sydd—

- (a) yn methu â chydymffurfio â rheoliadau 9, 10 neu 11; neu
- (b) yn fwriadol yn gwrthod rhoi unrhyw wybodaeth, llenwi unrhyw ffurflen, neu gyflwyno unrhyw ddogfen pan ofynnir iddo wneud hynny gan swyddog awdurdodedig (neu berson sy'n mynd gydag ef ac yn gweithredu o dan gyfarwyddiadau'r swyddog hwnnw) sy'n gweithredu i arfer pŵer a roddir gan reoliad 12, neu sydd fel arall yn ei rwystro'n fwriadol,

yn euog o dramgwydd ac yn agored, o'i gollfarnu'n ddiannod, i ddirwy nad yw'n uwch na lefel 5 ar y raddfa safonol.

(3) Caniateir dwyn achos ynglyn â thramgwydd o dan y Rheoliadau hyn, yn ddarostyngedig i baragraff (4), ar unrhyw adeg o fewn cyfnod o chwe mis o'r dyddiad y caiff yr erlynydd wybod am dystiolaeth sy'n ddigonol yn ei farn ef i gyfiawnhau'r achos.

(4) Ni chaniateir dwyn achos am dramgwydd o dan y Rheoliadau hyn fwy na phum mlynedd ar ôl i'r tramgwydd gael ei gyflawni.

(5) At ddibenion y rheoliad hwn—

- (a) bydd tystysgrif a lofnodir gan neu ar ran yr erlynydd sy'n datgan y dyddiad y cafodd wybod am dystiolaeth a oedd yn ddigonol yn ei farn ef i gyfiawnhau'r achos yn dystiolaeth ddigamsyniol o'r ffaith honno; a
- (b) bernir bod tystysgrif sy'n datgan y mater hwnnw ac sy'n ymhoni ei bod wedi'i llofnodi felly yn dystysgrif sydd wedi'i llofnodi felly oni phrofir i'r gwrthwyneb.

Tramgwyddau gan gyrff corfforaethol

17.—(1) Os profir bod tramgwydd o dan y Rheoliadau hyn a gyflawnwyd gan gorff corfforaethol wedi'i gyflawni gyda chydysyniad neu ymoddefiad unrhyw berson y mae'r paragraff hwn yn gymwys iddo, neu os gellir priodoli'r tramgwydd hwnnw i unrhyw esgeulustod ar ran y person hwnnw, bydd y person hwnnw, yn ogystal â'r corff corfforaethol, yn euog o'r tramgwydd hwnnw ac yn agored i achos yn ei erbyn a chosb yn unol â hynny.

(2) Mae paragraff (1) yn gymwys i unrhyw

imposed under regulation 4(2), or 12(6)(a) or (c), knowingly or recklessly produces a document which is false or misleading in a material particular,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Any person who—

- (a) fails to comply with regulations 9, 10 or 11; or
- (b) intentionally refuses to supply any information, make any return, or produce any document when required to do so by, or otherwise intentionally obstructs, an authorised officer (or a person accompanying and acting on the instructions of the officer) acting in exercise of a power conferred by regulation 12,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) Proceedings for an offence under these Regulations may, subject to paragraph (4), be commenced at any time within the period of 6 months from the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings comes to the knowledge of the prosecutor.

(4) No proceedings for an offence under these Regulations may be commenced more than 5 years after commission of the offence.

(5) For the purposes of this regulation—

- (a) a certificate signed by or on behalf of the prosecutor stating the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the knowledge of the prosecutor is conclusive evidence of that fact; and
- (b) a certificate stating that matter purporting to be so signed is deemed to be so signed unless the contrary is proved.

Offences by bodies corporate

17.—(1) Where an offence under these Regulations which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any person to whom this paragraph applies, that person as well as the body corporate is guilty of that offence and liable to be proceeded against and punished accordingly.

(2) Paragraph (1) applies to any director, manager,

gyfarwyddwr, rheolwr, ysgrifennydd neu swyddog cyffelyb arall o'r corff corfforaethol ac i unrhyw berson oedd yn honni gweithredu mewn unrhyw swyddogaeth o'r fath.

(3) Os yw materion corff corfforaethol yn cael eu rheoli gan ei aelodau, bydd paragraff (1) yn gymwys mewn perthynas â gweithredoedd a diffyg gweithredoedd aelod mewn cysylltiad â'i swyddogaethau rheoli fel pe bai'n un o gyfarwyddwyr y corff corfforaethol.

secretary or other similar officer of the body corporate and to any person who was purporting to act in any such capacity.

(3) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the functions of management of the member as if the member were a director of the body corporate.

Elin Jones

Y Gweinidog dros Faterion Gwledig, un o Weiniogion Cymru.

Minister for Rural Affairs, one of the Welsh Ministers.

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23 February 2009

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