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WELSH STATUTORY INSTRUMENTS

2019 Rhif 288 (Cy. 67)

2019 No. 288 (W. 67)

CYNLLUNIO GWLAD A THREF, CYMRU

TOWN AND COUNTRY PLANNING, WALES

Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Cymru) (Diwygio) 2019

The Developments of National Significance (Wales) (Amendment) Regulations 2019

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Cymru) 2016 ("Rheoliadau 2016") mewn perthynas â gwneud penderfyniadau ynghylch ceisiadau am ganiatâd cynllunio i osod llinellau trydan uwchben.

Mae gosod llinellau trydan uwchben sydd â foltedd enwol o 132 KV neu lai ac sy'n gysylltiedig â gorsafoedd cynhyrchu datganoledig yng Nghymru, yn ddatblygiad o arwyddocâd cenedlaethol neu "DAC" yn rhinwedd Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Meini Prawf Penodedig a Chydsyniadau Eilaidd Rhagnodedig) (Cymru) 2016 fel y'u diwygiwyd gan Reoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Meini Prawf Penodedig, Ffioedd a Ffioedd am Geisiadau Tybiedig) (Cymru) (Diwygio) 2019.

O dan baragraff 1 o Atodlen 4D o Ddeddf Cynllunio Gwlad a Thref 1990, caniateir i swyddogaethau penodedig Gweinidogion Cymru mewn perthynas â DAC gael eu cyflawni gan berson a benodir i wneud hynny ar eu rhan ("person penodedig").

Mae rheoliad 2(3) yn mewnosod rheoliad 11A newydd yn Rheoliadau 2016, er mwyn rhagnodi swyddogaethau penodedig mewn cysylltiad â llinellau trydan uwchben.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Developments of National Significance (Wales) Regulations 2016 ("the 2016 Regulations") in relation to the determination of applications for planning permission for the installation of overhead electric lines.

The installation of overhead electric lines with a nominal voltage of 132 KV or less and which are associated with devolved Welsh generating stations, is development of national significance or "DNS" by virtue of the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016 as amended by the Developments of National Significance (Specified Criteria, Fees and Fees for Deemed Applications) (Wales) (Amendment) Regulations 2019.

Under paragraph 1 of Schedule 4D to the Town and Country Planning Act 1990, specified functions of the Welsh Ministers in relation to DNS may be undertaken by a person appointed to do so on their behalf (an "appointed person").

Regulation 2(3) inserts new regulation 11A into the 2016 Regulations, to prescribe specified functions in respect of overhead electric lines.

Mae rheoliad 2(5) yn mewnosod rheoliad 18A newydd, sy'n gwneud darpariaeth ar gyfer adroddiad gan y person penodedig ar ôl i gais gael ei ystyried ar sail sylwadau ysgrifenedig. Mae'r rheoliad 18A newydd hefyd yn caniatáu i'r person penodedig beri i wrandawiad neu ymchwiliad gael ei gynnal os ydyw wedi ystyried tystiolaeth newydd neu faterion newydd o ffaith.

Mae rheoliad 2(6) yn mewnosod rheoliad 28A newydd, sy'n gwneud darpariaeth debyg mewn perthynas â cheisiadau a ystyrir drwy wrandawiad. Mae rheoliad 28A yn ymdrin â'r adroddiad a'r weithdrefn pan fo'r penderfyniad yn cael ei wneud gan y person penodedig. Mae rheoliad 28A hefyd yn gymwys i geisiadau yr ymdrinnir â hwy drwy ymchwiliad.

Mae paragraffau eraill yn rheoliad 2 yn gwneud diwygiadau canlyniadol.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, lluniwyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn. Gellir cael copi ar www.llyw.cymru.

Regulation 2(5) inserts new regulation 18A, which makes provision for a report by the appointed person after an application is considered on the basis of written representations. New regulation 18A also allows the appointed person to cause a hearing or inquiry to be held if they have considered new evidence or matters of fact.

Regulation 2(6) inserts new regulation 28A, which makes similar provision in relation to applications considered by way of a hearing. Regulation 28A deals with the report and procedure where the determination is made by the appointed person. Regulation 28A also applies to applications dealt with by way of an inquiry.

Other paragraphs of regulation 2 make consequential amendments.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained at www.gov.wales.

2019 Rhif 288 (Cy. 67)

CYNLLUNIO GWLAD A THREF, CYMRU

Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Cymru) (Diwygio) 2019

Gwnaed	*18 Chwefror 2019*
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru	*20 Chwefror 2019*
Yn dod i rym	*1 Ebrill 2019*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir i Gynulliad Cenedlaethol Cymru gan adran 321B o Ddeddf Cynllunio Gwlad a Thref 1990(**1**) ac sydd bellach yn arferadwy ganddynt hwy(**2**), ac a roddir iddynt gan adran 323A o'r Ddeddf honno(**3**), a pharagraff 1 o Atodlen 4D iddi, yn gwneud y Rheoliadau a ganlyn:

Enwi a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Cymru) (Diwygio) 2019.

(2) Daw'r Rheoliadau hyn i rym ar 1 Ebrill 2019.

(**1**) 1990 p. 8. Mewnosodwyd adran 321B gan adran 81 o Ddeddf Cynllunio a Phrynu Gorfodol 2004 (p. 5).
(**2**) Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weinidogion Cymru yn rhinwedd paragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p. 32).
(**3**) Mewnosodwyd adran 323A gan adran 50 o Ddeddf Cynllunio (Cymru) 2015 ("Deddf 2015"). Mewnosodwyd Atodlen 4D gan baragraff 1 o Atodlen 3 i'r Ddeddf honno.

2019 No. 288 (W. 67)

TOWN AND COUNTRY PLANNING, WALES

The Developments of National Significance (Wales) (Amendment) Regulations 2019

Made	*18 February 2019*
Laid before the National Assembly for Wales	*20 February 2019*
Coming into force	*1 April 2019*

The Welsh Ministers, in exercise of the powers conferred on the National Assembly for Wales by section 321B of the Town and Country Planning Act 1990(**1**) and now exercisable by them(**2**), and conferred on them by section 323A of, and paragraph 1 of Schedule 4D to that Act(**3**), make the following Regulations:

Title and commencement

1.—(1) The title of these Regulations is the Developments of National Significance (Wales) (Amendment) Regulations 2019.

(2) These Regulations come into force on 1 April 2019.

(**1**) 1990 c. 8. Section 321B was inserted by section 81 of the Planning and Compulsory Purchase Act 2004 (c. 5).
(**2**) The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of paragraph 30 Schedule 11 to the Government of Wales Act 2006 (c. 32).
(**3**) Section 323A was inserted by section 50 of the Planning (Wales) Act 2015 ("the 2015 Act"). Schedule 4D was inserted by paragraph 1 of Schedule 3 to that Act.

Diwygiadau i Reoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Cymru) 2016

2.—(1) Mae Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Cymru) 2016(**1**) wedi eu diwygio fel a ganlyn.

(2) Yn rheoliad 2, yn y diffiniad o "person penodedig" yn lle "rheoliad 11" rhodder "rheoliadau 11 ac 11A".

(3) Ar ôl rheoliad 11, mewnosoder—

"Swyddogaethau penodedig: llinellau trydan

11A. Yn ogystal â'r swyddogaethau hynny a ragnodir gan reoliad 11, mae'r swyddogaethau a ganlyn wedi eu rhagnodi at ddibenion paragraff 1 o Atodlen 4D i Ddeddf 1990 mewn cysylltiad â datblygiad o fewn rheoliad 3(1)(ab) o Reoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Meini Prawf Penodedig a Chydsyniadau Eilaidd Rhagnodedig (Cymru) 2016(**2**)—

(a) swyddogaethau o dan adran 62F o Ddeddf 1990 (datblygiadau o arwyddocâd cenedlaethol: cydsyniadau eilaidd)(**3**);

(b) swyddogaethau o dan adran 62J o Ddeddf 1990 (dyletswydd i roi sylw i adroddiad ar yr effaith leol)(**4**);

(c) penderfynu ar y cais cyn diwedd y cyfnod penderfynu yn unol ag adran 62L(2) o Ddeddf 1990(**5**);

(d) penderfynu ar gais o dan adran 70(1) o Ddeddf 1990(**6**);

(e) swyddogaethau o dan erthyglau 28 a 29 o Orchymyn 2016;

(f) swyddogaethau o dan y rheoliadau a ganlyn—

(i) rheoliad 19 (mynd ymlaen i benderfynu);

(ii) rheoliad 29 (penderfynu);

(iii) rheoliad 35 (penderfynu);

Amendments to the Developments of National Significance (Wales) Regulations 2016

2.—(1) The Developments of National Significance (Wales) Regulations 2016(**1**) are amended as follows.

(2) In regulation 2, in the definition of "appointed person" for "regulation 11" substitute "regulations 11 and 11A".

(3) After regulation 11, insert—

"Specified functions: electric lines

11A. In addition to those functions prescribed by regulation 11, the following functions are prescribed for the purposes of paragraph 1 of Schedule 4D to the 1990 Act in respect of development within regulation 3(1)(ab) of the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016(**2**)—

(a) functions under section 62F of the 1990 Act (developments of national significance: secondary consents)(**3**);

(b) functions under section 62J of the 1990 Act (duty to have regard to local impact report)(**4**);

(c) determining the application before the end of the determination period in accordance with section 62L(2) of the 1990 Act(**5**);

(d) determining an application under section 70(1) of the 1990 Act(**6**);

(e) functions under articles 28 and 29 of the 2016 Order;

(f) functions under these regulations—

(i) regulation 19 (proceeding to a decision);

(ii) regulation 29 (determination);

(iii) regulation 35 (determination);

(**1**) O.S. 2016/56 (Cy. 26), a ddiwygiwyd gan O.S. 2017/642 (Cy. 148).
(**2**) O.S. 2016/53 (Cy. 23), a ddiwygiwyd gan O.S. 2016/358 (Cy. 111). Mewnosodwyd rheoliad 3(1)(ab) gan Reoliadau o Arwyddocâd Cenedlaethol (Meini Prawf Penodedig, Ffioedd a Ffioedd am Geisiadau Tybiedig) (Cymru) (Diwygio) 2019 (O.S. 2019/283 (Cy. 65)).
(**3**) Mewnosodwyd adran 62F gan adran 20 o Ddeddf 2015.
(**4**) Mewnosodwyd adran 62J gan adran 21 o Ddeddf 2015.
(**5**) Mewnosodwyd adran 62L gan adran 22 o Ddeddf 2015.
(**6**) Diwygiwyd adran 70(1) gan baragraff 5 o Atodlen 4 i Ddeddf 2015.

(**1**) S.I. 2016/56 (W. 26), amended by S.I. 2017/642 (W. 148).
(**2**) S.I. 2016/53 (W. 23), amended by S.I. 2016/358 (W. 111). Regulation 3(1)(ab) was inserted by the Developments of National Significance (Specified Criteria, Fees, and Fees for Deemed Applications) (Wales) (Amendment) Regulations 2019 (S.I. 2019/283 (W. 65)).
(**3**) Section 62F was inserted by section 20 of the 2015 Act.
(**4**) Section 62J was inserted by section 21 of the 2015 Act.
(**5**) Section 62L was inserted by section 22 of the 2015 Act.
(**6**) Section 70(1) was amended by paragraph 5 of Schedule 4 to the 2015 Act.

(iv) rheoliad 36(1) (hysbysiad o benderfyniad).”

(4) Yn rheoliad 18 cyn paragraff (1) mewnosoder—

“(A1) Mae’r rheoliad hwn yn gymwys pan fo’r swyddogaeth o benderfynu ar y cais i’w harfer gan Weinidogion Cymru.”

(5) Ar ôl rheoliad 18 mewnosoder—

“Adroddiad: llinellau trydan

18A.—(1) Mae’r rheoliad hwn yn gymwys pan fo’r swyddogaeth o benderfynu ar y cais i’w harfer gan berson penodedig.

(2) Rhaid i’r person penodedig wneud adroddiad ysgrifenedig y mae’n rhaid iddo gynnwys casgliadau a phenderfyniad y person penodedig.

(3) Caiff y person penodedig beri i wrandawiad neu ymchwiliad gael ei gynnal os, ar ôl ystyried y sylwadau ysgrifenedig, yw’r person penodedig o’r farn y dylid cymryd i ystyriaeth unrhyw dystiolaeth newydd neu fater newydd o ffaith, nad yw’n fater o bolisi.

(4) Pan fo gwrandawiad neu ymchwiliad i’w gynnal, rhaid i’r person penodedig anfon at y ceisydd, yr awdurdod cynllunio lleol a’r personau sy’n cyflwyno sylwadau ysgrifenedig, ddatganiad ysgrifenedig o’r materion y gwahoddir sylwadau pellach yn eu cylch at ddibenion ystyried y cais ymhellach gan y person penodedig.

(5) Rhaid i’r rhai sy’n gwneud sylwadau pellach sicrhau bod y person penodedig yn cael y cyfryw sylwadau o fewn pa bynnag gyfnod o amser a ddatgenir gan y person penodedig yn y gwahoddiad o dan baragraff (4).

(6) Mae rheoliad 15(2) i (6) yn gymwys i unrhyw sylwadau pellach a gyflwynir i’r person penodedig yn unol â pharagraff (5), fel pe bai cyfeiriadau at Weinidogion Cymru yn gyfeiriadau at y person penodedig.”

(6) Yn rheoliad 19(2) yn lle “a ragnodwyd gan reoliadau 15 a 18” rhodder “a ragnodir gan reoliadau 15, 18 a 18A”.

(7) Yn rheoliad 20(2) yn lle paragraff (c) rhodder—

“(c) Gweinidogion Cymru neu’r person penodedig wedi peri i wrandawiad gael ei gynnal yn unol â rheoliad 18(5) neu reoliad 18A(3),”

(8) Yn rheoliad 28 cyn paragraff (1) mewnosoder—

“(A1) Mae’r rheoliad hwn yn gymwys pan fo’r swyddogaeth o benderfynu ar y cais i’w harfer gan Weinidogion Cymru.”

(iv) regulation 36(1) (notice of decision)”.

(4) In regulation 18 before paragraph (1) insert—

“(A1) This regulation applies where the function of determining the application is to be exercised by the Welsh Ministers.”

(5) After regulation 18 insert—

“Report: electric lines

18A.—(1) This regulation applies where the function of determining the application is to be exercised by an appointed person.

(2) The appointed person must make a report in writing which must include the appointed person’s conclusions and determination.

(3) The appointed person may cause a hearing or inquiry to be held if after having considered the written representations the appointed person is minded to take into consideration any new evidence or new matter of fact, not being a matter of policy.

(4) Where a hearing or inquiry is to be held, the appointed person must send to the applicant, the local planning authority and persons submitting written representations, a written statement of the matters with respect to which further representations are invited for the purposes of the appointed person’s further consideration of the application.

(5) Those making further representations must ensure that such representations are received by the appointed person within such time as the appointed person states in the invitation under paragraph (4).

(6) Regulation 15(2) to (6) apply to any further representations submitted to the appointed person in accordance with paragraph (5), as if references to the Welsh Ministers were to the appointed person.”

(6) In regulation 19(2) for “prescribed by regulations 15 and 18” substitute “prescribed by regulations 15, 18 and 18A”.

(7) In regulation 20(2) for paragraph (c) substitute—

“(c) the Welsh Ministers or the appointed person have caused a hearing to be held pursuant to regulation 18(5) or regulation 18A(3),”

(8) In regulation 28 before paragraph (1) insert—

“(A1) This regulation applies where the function of determining the application is to be exercised by the Welsh Ministers.”

(9) Ar ôl rheoliad 28 mewnosoder—

“Gweithdrefn ac adroddiad ar ôl gwrandawiad: penderfyniad gan berson penodedig

28A.—(1) Mae’r rheoliad hwn yn gymwys pan fo’r swyddogaeth o benderfynu ar y cais i’w harfer gan berson penodedig.

(2) Ar ôl cau’r gwrandawiad—

(a) caiff yr asesydd (os penodir un) wneud adroddiad ysgrifenedig i’r person penodedig mewn cysylltiad â’r materion y penodwyd yr asesydd i gynorthwyo gyda hwy;

(b) rhaid i’r person penodedig wneud adroddiad ysgrifenedig a chynnwys ynddo gasgliadau’r person penodedig a’i benderfyniad.

(3) Pan fo asesydd yn gwneud adroddiad yn unol â pharagraff (2)(a), rhaid i’r person penodedig—

(a) ei atodi wrth ei adroddiad; a

(b) datgan yn yr adroddiad hwnnw i ba raddau y mae’r person penodedig yn cytuno neu’n anghytuno ag adroddiad yr asesydd, a phan fo’r person penodedig yn anghytuno â’r asesydd, ddatgan y rhesymau dros yr anghytundeb hwnnw.

(4) Wrth wneud y penderfyniad, caiff y person penodedig ddiystyru unrhyw sylwadau ysgrifenedig neu ddogfen arall a geir ar ôl cau’r gwrandawiad.

(5) Os yw’r person penodedig, ar ôl cau’r gwrandawiad, yn bwriadu cymryd i ystyriaeth unrhyw dystiolaeth newydd neu unrhyw fater newydd o ffaith (nad yw’n fater o bolisi) na chafodd ei godi yn y gwrandawiad ac y mae’r person penodedig yn ystyried ei fod yn faterol berthnasol i’r penderfyniad, ni chaniateir i’r person penodedig ddod i benderfyniad heb yn gyntaf—

(a) hysbysu’r ceisydd, yr awdurdod cynllunio lleol a’r personau hynny a gyflwynodd sylwadau ysgrifenedig ac a gymerodd ran yn y gwrandawiad; a

(b) rhoi cyfle iddynt gyflwyno sylwadau ysgrifenedig.

(6) Rhaid i’r rhai sy’n gwneud sylwadau ysgrifenedig sicrhau bod y person penodedig yn cael y cyfryw sylwadau o fewn y cyfnod a ddatgenir yn hysbysiad y person penodedig o dan baragraff (5)(a).

(9) After regulation 28 insert—

“Procedure and report after a hearing: determination by an appointed person

28A.—(1) This regulation applies where the function of determining the application is to be exercised by an appointed person.

(2) After the close of the hearing—

(a) the assessor (if one is appointed) may make a report in writing to the appointed person in respect of the matters on which the assessor was appointed to assist;

(b) the appointed person must make a report in writing which must include the appointed person’s conclusions and determination.

(3) Where an assessor makes a report in accordance with paragraph (2)(a), the appointed person must—

(a) append it to their report; and

(b) state in that report how far the appointed person agrees or disagrees with the assessor’s report and, where the appointed person disagrees with the assessor, the reasons for that disagreement.

(4) When making the determination, the appointed person may disregard any written representations or other document received after the hearing has closed.

(5) If, after the close of the hearing, the appointed person proposes to take into consideration any new evidence or any new matter of fact (not being a matter of policy) which was not raised at the hearing and which the appointed person considers to be material to the determination, the appointed person must not come to a determination without first—

(a) notifying the applicant, the local planning authority and those persons who submitted written representations and took part in the hearing; and

(b) affording them an opportunity of making written representations.

(6) Those making written representations must ensure that such representations are received by the appointed person within the period stated in the appointed person’s notification under paragraph (5)(a).

(7) Caiff y person penodedig beri bod gwrandawiad yn cael ei ailagor fel yr ystyria'r person yn briodol.

(8) Pan ailagorir gwrandawiad (pa un ai gan yr un person penodedig neu berson penodedig gwahanol)—

(a) rhaid i'r person penodedig anfon at y ceisydd, yr awdurdod cynllunio lleol a'r personau hynny a gyflwynodd sylwadau ysgrifenedig neu a gymerodd ran yn y gwrandawiad, ddatganiad ysgrifenedig o'r materion y gwahoddir sylwadau pellach mewn cysylltiad â hwy, at y diben o ystyried y cais ymhellach gan y person penodedig; a

(b) mae rheoliad 26 yn gymwys fel pe bai'r cyfeiriadau at wrandawiad yn gyfeiriadau at wrandawiad a ailagorwyd.

(9) Mae rheoliad 15(2) i (6) yn gymwys i unrhyw dystiolaeth neu sylw ysgrifenedig a gyflwynir i'r person penodedig yn unol â pharagraff (6) o'r rheoliad hwn, fel pe bai cyfeiriadau at Weinidogion Cymru yn gyfeiriadau at y person penodedig.

(10) Mae rheoliad 29(b) i'w ddarllen fel pe bai cyfeiriad at y cyfnod a ganiateir yn unol â rheoliad 28(6) yn gyfeiriad at y cyfnod a ganiateir yn unol â rheoliad 28A(6).”

(10) Yn rheoliad 30(3) yn lle “rheoliadau 22 i 25 a 28” rhodder “rheoliadau 22 i 25, 28 a 28A”.

(11) Yn rheoliad 35(b) yn lle “rheoliad 28(6)” rhodder “rheoliad 28(6) neu reoliad 28A(6) (yn y naill achos a'r llall fel y'i cymhwysir gan reoliad 30(3))”.

(12) Yn lle rheoliad 40(1) rhodder—

“**40.**—(1) Mae'r Rhan hon yn gymwys pan gaiff penderfyniad mewn perthynas â chydsyniad eilaidd ei wneud gan—

(a) Gweinidogion Cymru—

(i) yn rhinwedd adran 62F(2) o Ddeddf 1990; neu

(ii) o dan unrhyw ddeddfiad arall pan fo Gweinidogion Cymru o'r farn bod y cydsyniad eilaidd yn gysylltiedig â chais o dan adran 62D o Ddeddf 1990; neu

(b) person penodedig yn rhinwedd rheoliad 11A(a).”

(13) Yn Atodlen 1—

(a) yn y testun Cymraeg hepgorer paragraff 8(b).

(b) ar ôl paragraff 8 mewnosoder—

(7) The appointed person may cause a hearing to be re-opened as the person thinks fit.

(8) Where a hearing is re-opened (whether by the same or a different appointed person)—

(a) the appointed person must send to the applicant, the local planning authority and persons who submitted written representations or who took part in the hearing, a written statement of the matters with respect to which further representations are invited for the purposes of the appointed person's further consideration of the application; and

(b) regulation 26 applies as if the references to a hearing were references to a re-opened hearing.

(9) Regulation 15(2) to (6) apply to any evidence or representation in writing submitted to the appointed person in accordance with paragraph (6) of this regulation, as if references to the Welsh Ministers were to the appointed person.

(10) Regulation 29(b) is to be read as if reference to the period allowed in accordance with regulation 28(6) is reference to the period allowed in accordance with regulation 28A(6).”

(10) In regulation 30(3) for “Regulations 22 to 25 and 28” substitute “Regulations 22 to 25, 28 and 28A”.

(11) In regulation 35(b) for “regulation 28(6)” substitute “regulation 28(6) or regulation 28A(6) (in either case as applied by regulation 30(3))”.

(12) For regulation 40(1) substitute—

“**40.**—(1) This Part applies where a decision in relation to a secondary consent is made by—

(a) the Welsh Ministers—

(i) by virtue of section 62F(2) of the 1990 Act; or

(ii) under any other enactment where the Welsh Ministers consider that the secondary consent is connected to an application under section 62D of the 1990 Act; or

(b) an appointed person by virtue of regulation 11A(a).”

(13) In Schedule 1—

(a) in the Welsh text omit paragraph 8(b);

(b) after paragraph 8 insert—

“Gweithdrefn ar ôl ymchwiliad: penderfyniad gan berson penodedig

8A. Rhaid darllen rheoliad 28A (fel y’i cymhwysir i ymchwiliadau gan reoliad 30(3)) fel a ganlyn—

(a) ar ôl paragraff (3) mewnosoder—

“(3A) Pan ystyriwyd tystiolaeth gaeedig yn yr ymchwiliad—

(a) rhaid i’r person penodedig a’r asesydd, pan fo un wedi ei benodi, nodi mewn rhan ar wahân o’u hadroddiadau (“y rhan gaeedig”) unrhyw ddisgrifiad o’r dystiolaeth honno ynghyd ag unrhyw gasgliadau neu benderfyniad mewn perthynas â’r dystiolaeth honno; a

(b) pan fo asesydd wedi ei benodi, rhaid i’r person penodedig atodi’r rhan gaeedig o adroddiad yr asesydd wrth ran gaeedig adroddiad y person penodedig, a rhaid iddo ddatgan, yn rhan gaeedig yr adroddiad hwnnw, y lefel o gytundeb neu anghytundeb â rhan gaeedig adroddiad yr asesydd, a phan fo anghytundeb â’r asesydd, y rhesymau am yr anghytundeb hwnnw.”

(b) ym mharagraff 8(a) ar ôl “ceisydd” mewnosoder “, y cynrychiolydd penodedig”.

(14) Yn Atodlen 8—

(a) ar ôl paragraff 1(3) mewnosoder—

“(3A) Rhaid i adroddiad y person penodedig o dan reoliadau 18A (adroddiad: llinellau trydan) neu reoliad 28A (gweithdrefn ac adroddiad ar ôl gwrandawiad: penderfyniad gan berson penodedig) gynnwys, yn ychwanegol at gasgliadau a phenderfyniad y person penodedig mewn perthynas â’r cais, argymhelliad neu benderfyniad mewn perthynas â gorchymyn o dan adran 247 o Ddeddf 1990.”

(b) ar ôl paragraff (7) mewnosoder—

“(8) Rhaid darllen rheoliad 28A fel a ganlyn—

“Procedure after inquiry: determination by an appointed person

8A. Regulation 28A (as it applies to inquiries by regulation 30(3)) is read as if—

(a) after paragraph (3) there is inserted—

“(3A) Where closed evidence was considered at the inquiry—

(a) the appointed person and assessor, where one has been appointed, must set out in a separate part (“the closed part”) of their reports any description of that evidence together with any conclusions or decision in relation to that evidence; and

(b) where an assessor has been appointed, the appointed person must append the closed part of the assessor's report to the closed part of the appointed person's report and must state in the closed part of that report the level of agreement or disagreement with the closed part of the assessor's report and, where there is disagreement with the assessor, the reasons for that disagreement.”

(b) in paragraph 8(a) after “applicant” there is inserted “, the appointed representative”.

(14) In Schedule 8—

(a) after paragraph 1(3) insert—

“(3A) The report of the appointed person under regulation 18A (report: electric lines) or regulation 28A (procedure and report after a hearing: determination by an appointed person) must include, in addition to the appointed person’s conclusions and determination in relation to the application, a recommendation or decision in relation to an order under section 247 of the 1990 Act.”

(b) after paragraph (7) insert—

“(8) Regulation 28A is read as if—

(a) ym mharagraff (4) yn lle "sylwadau ysgrifenedig neu ddogfen arall" rhodder "wrthwynebiad i wneud gorchymyn o dan adran 247 o Ddeddf 1990";

(b) ym mharagraff (5) yn lle "a gyflwynodd sylwadau ysgrifenedig" rhodder "a wrthwynebodd wneud gorchymyn o dan adran 247 o Ddeddf 1990";

(c) ym mharagraff (8)(a) yn lle "a gyflwynodd sylwadau ysgrifenedig" rhodder "a wrthwynebodd wneud gorchymyn o dan adran 247 o Ddeddf 1990"."

(a) in paragraph (4) for "written representations or other document" there is substituted "objection to the making of an order under section 247 of the 1990 Act";

(b) in paragraph (5) for "submitted written representations" there is substituted "made objections to the making of an order under section 247 of the 1990 Act";

(c) in paragraph (8)(a) for "submitted written representations" there is substituted "made objections to the making of an order under section 247 of the 1990 Act"."

Julie James

Y Gweinidog Tai a Llywodraeth Leol, un o Weinidogion Cymru
18 Chwefror 2019

Minister for Housing and Local Government, one of the Welsh Ministers
18 February 2019

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