



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2011 Rhif 865 (Cy.127)

2011 No. 865 (W.127)

**DIOGELU'R ARFORDIR,
CYMRU**

**COAST PROTECTION,
WALES**

**DIOGELU'R AMGYLCHEDD,
CYMRU**

**ENVIRONMENTAL
PROTECTION, WALES**

**RHEOLI PERYGL
LLIFOGYDD, CYMRU**

**FLOOD RISK MANAGEMENT,
WALES**

Rheoliadau Apelio ynghylch
Gwybodaeth am Reoli Perygl
Llifogydd ac Erydu Arfordirol
(Cymru) 2011

The Flood and Coastal Erosion
Risk Management Information
Appeal (Wales) Regulations 2011

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 darparu hawl i apelio yn erbyn cosbau a roddir o dan adran 15 o Ddeddf Rheoli Llifogydd a Dŵr 2010 (p.29) ("y Ddeddf") o ran Cymru. Maent yn rhoi awdurdodaeth i Dribiwnlys yr Haen Gyntaf i ystyried apelau a wneir o dan y Rheoliadau hyn. Maent yn gwneud darpariaeth ar gyfer gweithdrefn, gan gynnwys: y seiliau dros apelio; effaith apêl; a phwerau Tribiwnlys yr Haen Gyntaf wrth ddyfarnu ar yr apêl.

These Regulations provide a right of appeal against penalties imposed under section 15 of the Flood and Water Management Act 2010 (c.29) ("the Act") in relation to Wales. They confer jurisdiction on the First-tier Tribunal to consider appeals made under these Regulations. They make provision for procedure, including: grounds for an appeal; effect of an appeal; and powers of the First-tier Tribunal in determining the appeal.

Mae Rheolau Gweithdrefn y Tribiwnlysoedd (Tribiwnlys yr Haen Gyntaf) (Y Siambr Reoleiddio Gyffredinol) 2009 (O.S. 2009/1976) hefyd yn llywodraethu apelau o dan adran 15 o'r Ddeddf a'r broses o ddwyn apêl.

Appeals under section 15 of the Act and the process for bringing an appeal are also governed by the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (S.I. 2009/1976).

Mae asesiad o'r effaith a gaiff yr offeryn hwn ar gostau busnes, costau'r sector gwirfoddol a chostau'r sector cyhoeddus ar gael gan: Yr Is-adran Newid yn yr Hinsawdd a Dŵr, Llywodraeth Cynulliad Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

An impact assessment of the effect that this instrument will have on the costs of business, the voluntary sector and the public sector is available from the Climate Change and Water Division, Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ.

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Gwnaed

17 Mawrth 2011

Made

17 March 2011

Yn dod i rym

6 Ebrill 2011

Coming into force

6 April 2011

Gwneir y Rheoliadau hyn gan Weinidogion Cymru, drwy arfer y pwerau a roddir gan adrannau 15(8)(1), a 48(2) o Ddeddf Rheoli Llifogydd a Dŵr 2010(2), o ran cosbau a roddir gan—

- (a) awdurdodau llifogydd lleol arweiniol ar gyfer ardaloedd yng Nghymru,
- (b) Asiantaeth yr Amgylchedd o ran methiant i gydymffurfio â gofyniad mewn cysylltiad â swyddogaeth rheoli perygl o lifogydd neu erydu arfordirol o ran Cymru, ac
- (c) Gweinidogion Cymru.

These Regulations are made by the Welsh Ministers in exercise of the powers conferred by sections 15(8)(1), and 48(2) of the Flood and Water Management Act 2010(2), in relation to penalties issued by—

- (a) lead local flood authorities for areas in Wales,
- (b) the Environment Agency in respect of a failure to comply with a request in connection with a flood or coastal erosion risk management function in relation to Wales, and
- (c) the Welsh Ministers.

(1) Rhoddir y pŵer gan adran 15(8) o Ddeddf Rheoli Llifogydd a Dŵr 2010 i "the Minister", ac mae adran 15(10) o'r Ddeddf honno yn diffinio "the Minister" at ddiibenion yr adran.

(2) 2010 p.29.

(1) The power is conferred by section 15(8) of the Flood and Water Management Act 2010 on "the Minister", and section 15(10) of that Act defines "the Minister" for the purposes of the section.

(2) 2010 c.29.

Ymgynghorwyd â'r Cyngor Cyfiawnder Gweinyddol a Thriwlynlysoedd ac mae'r Cyngor hwnnw wedi ymgynghori â Phwyllgor Cymreig y Cyngor Cyfiawnder a Thriwlynlysoedd, yn unol ag adran 44 o Ddeddf y Triwlynlysoedd, Llysoedd a Gorfodaeth 2007(1) a pharagraff 24 o Atodlen 7 iddi.

Mae drafft o'r offeryn hwn wedi ei gymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru yn unol ag adran 15(12) o Ddeddf Rheoli Llifogydd a Dŵr 2010.

Enwi, cychwyn a chymhwyso

1. O ran y Rheoliadau hyn—

- (a) eu henw yw Rheoliadau Apelio ynghylch Gwybodaeth am Reoli Perygl Llifogydd ac Erydu Arfordirol (Cymru) 2011;
- (b) deuant i rym ar 6 Ebrill 2011; ac
- (c) maent yn gymwys o ran cosbau a roddir gan—
 - (i) awdurdodau llifogydd lleol arweiniol ar gyfer ardaloedd yng Nghymru;
 - (ii) Asiantaeth yr Amgylchedd mewn cysylltiad â methiant i gydymffurfio â gofyniad mewn cysylltiad â swyddogaeth rheoli perygl o lifogydd neu erydu arfordirol o ran Cymru; a
 - (iii) Gweinidogion Cymru.

Dehongli

2. Yn y Rheoliadau hyn—

ystyr "y Ddeddf" ("*the Act*") yw Deddf Rheoli Llifogydd a Dŵr 2010;

ystyr "hysbysiad gorfodi" ("*enforcement notice*") yw hysbysiad a roddir o dan adran 15(1) o'r Ddeddf mewn cysylltiad â methiant i gydymffurfio â gofyniad o dan adran 14(1) neu (3) o'r Ddeddf i ddarparu gwybodaeth;

ystyr "hysbysiad o gosb" ("*penalty notice*") yw hysbysiad gan awdurdod o dan adran 15(3) o'r Ddeddf sy'n rhoi cosb i berson sy'n methu â darparu gwybodaeth a bennir mewn hysbysiad gorfodi yn y cyfnod penodedig.

Yr hawl i apelio

3. Caiff person y rhoddwyd cosb iddo gan hysbysiad o gosb apelio i Dribiwnlys yr Haen Gyntaf yn erbyn y gosb.

The Administrative Justice and Tribunals Council has been consulted, and that Council has consulted the Welsh Committee, in accordance with section 44 of and paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007(1).

A draft of this instrument has been approved by a resolution of the National Assembly for Wales pursuant to section 15(12) of the Flood and Water Management Act 2010.

Citation, commencement and application

1. These Regulations—

- (a) may be cited as the Flood and Coastal Erosion Risk Management Information Appeal (Wales) Regulations 2011;
- (b) come into force on 6 April 2011; and
- (c) apply in relation to penalties issued by—
 - (i) lead local flood authorities for areas in Wales;
 - (ii) the Environment Agency in respect of a failure to comply with a request in connection with a flood or coastal erosion risk management function in relation to Wales; and
 - (iii) the Welsh Ministers.

Interpretation

2. In these Regulations—

"the Act" ("*y Ddeddf*") means the Flood and Water Management Act 2010;

"enforcement notice" ("*hysbysiad gorfodi*") means a notice given under section 15(1) of the Act in respect of a failure to comply with a request under section 14(1) or (3) of the Act to provide information;

"penalty notice" ("*hysbysiad o gosb*") means a notice from an authority under section 15(3) of the Act which imposes a penalty on a person who fails to provide information specified in an enforcement notice in the specified period.

Right of Appeal

3. A person on whom a penalty is imposed by a penalty notice may appeal to the First-tier Tribunal against the penalty.

(1) 2007 p.15.

(1) 2007 c.15.

Y seiliau dros apelio

4. At ddibenion rheol 22(2)(g) o Reolau Gweithdrefn y Tribiwnlysoedd (Tribiwnlys yr Haen Gyntaf) (Y Siambr Reoleiddio Gyffredinol) 2009(1), y seiliau dros apelio yw—

- (a) bod y penderfyniad i gyflwyno'r hysbysiad o gosb wedi'i seilio ar gamgymeriad ffeithiol;
- (b) bod y penderfyniad yn anghywir yn gyfreithiol;
- (c) bod swm y gosb yn afresymol;
- (ch) unrhyw reswm arall.

Y weithdrefn

5. Rhaid i'r canlynol fynd gyda hysbysiad o apêl(2) o dan reol 22 o Reolau Gweithdrefn y Tribiwnlysoedd (Tribiwnlys yr Haen Gyntaf) (Y Siambr Reoleiddio Gyffredinol) 2009 (yn ychwanegol at fod yn rhaid i'r hysbysiad gydymffurfio â gofynion y Rheolau hynny)—

- (a) copi o'r hysbysiad gorfodi;
- (b) copiâu o unrhyw sylwadau a wnaed o dan adran 15(2)(c) o'r Ddeddf;
- (c) copi o'r hysbysiad o gosb.

Effaith apêl

6. Rhaid i awdurdod sy'n cael hysbysiad o apêl gan berson y mae wedi rhoi cosb iddo beidio â chymryd camau i adennill y gosb ar ffurf dyled hyd oni ddyferrir ar yr apêl neu hyd oni chaiff ei thynnu'n ôl.

Dyfarnu ar apêl

7. Pan benderfynir ar apêl o dan reoliad 3, rhaid i Dribiwnlys yr Haen Gyntaf naill ai—

- (a) cadarnhau'r gosb;
- (b) lleihau'r gosb; neu
- (c) dileu'r gosb.

Grounds for appeal

4. For the purposes of rule 22(2)(g) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009(1), the grounds for appeal are—

- (a) that the decision to serve the penalty notice was based on an error of fact;
- (b) that the decision was wrong in law;
- (c) that the amount of the penalty was unreasonable;
- (d) any other reason.

Procedure

5. The notice of appeal(2) under rule 22 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 must (in addition to complying with the requirements of those Rules) be accompanied by—

- (a) a copy of the enforcement notice;
- (b) copies of any representations made under section 15(2)(c) of the Act;
- (c) a copy of the penalty notice.

Effect of Appeal

6. An authority that receives a notice of appeal from a person on whom it has imposed a penalty must not take action to recover the penalty as a debt until the appeal is either determined or withdrawn.

Determining an appeal

7. On deciding an appeal under regulation 3, the First-tier Tribunal must either—

- (a) confirm the penalty;
- (b) reduce the penalty; or
- (c) quash the penalty.

(1) O.S. 2009/1976.

(2) *Gweler* rheol 1(3) o O.S. 2009/1976 ar gyfer ystyr "hysbysiad o apêl".

(1) S.I. 2009/1976.

(2) *See* rule 1(3) of S.I. 2009/1976 for the meaning of "notice of appeal".

Jane Davidson

Y Gweinidog dros yr Amgylchedd, Cynaliadwyedd a
Thai, un o Weinidogion Cymru

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

17 Mawrth 2011

17 March 2011

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