



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2019 Rhif 296 (Cy. 74)

2019 No. 296 (W. 74)

TRYDAN, CYMRU

ELECTRICITY, WALES

Rheoliadau Trydan (Gorsafoedd
Cynhyrchu Alltraeth) (Ffioedd)
(Cymru) 2019

The Electricity (Offshore
Generating Stations) (Fees) (Wales)
Regulations 2019

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn darparu ar gyfer talu ffioedd mewn cysylltiad â cheisiadau am gydsyniad o dan adran 36 o Ddeddf Trydan 1989 (p. 29) ("Deddf 1989") i adeiladu, estyn neu weithredu gorsaf gynhyrchu alltraeth.

Gweinidogion Cymru, o 1 Ebrill 2019, yw'r awdurdod priodol mewn perthynas â cheisiadau o dan adrannau 36 a 36A o Ddeddf 1989 sy'n ymwneud â gorsafoedd cynhyrchu yn nyfroedd Cymru sydd â gallu cynhyrchu nad yw'n fwy na 350 megawat.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau 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.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the payment of fees in respect of applications for consent under section 36 of the Electricity Act 1989 (c. 29) ("the 1989 Act") to construct, extend or operate an offshore generating station.

The Welsh Ministers are, from 1 April 2019, the appropriate authority in relation to applications under sections 36 and 36A of the 1989 Act relating to generating stations in Welsh waters which have a capacity not exceeding 350 megawatts.

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.

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(Cymru) 2019

The Electricity (Offshore
Generating Stations) (Fees) (Wales)
Regulations 2019

Gwnaed 18 Chwefror 2019

Made 18 February 2019

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 20 Chwefror 2019

Laid before the National Assembly for Wales
20 February 2019

Yn dod i rym 1 Ebrill 2019

Coming into force 1 April 2019

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir iddynt gan adrannau 36(8A) a 60 o Ddeddf Trydan 1989(1), yn gwneud y Rheoliadau a ganlyn:

The Welsh Ministers, in exercise of the powers conferred on them by sections 36(8A) and 60 of the Electricity Act 1989(1), make the following Regulations:

Enwi, cychwyn a dehongli

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Trydan (Gorsafoedd Cynhyrchu Alltraeth) (Ffioedd) (Cymru) 2019 a deuant i rym ar 1 Ebrill 2019.

Title, commencement and interpretation

1.—(1) The title of these Regulations is the Electricity (Offshore Generating Stations) (Fees) (Wales) Regulations 2019 and they come into force on 1 April 2019.

(1) 1989 p. 29. *Gweler* adran 36(10) am y diffiniad o "appropriate authority". Mewnosodwyd adran 36(8A) gan baragraff 47 o Atodlen 6 i Ddeddf Cymru 2017 (p. 4) ("Deddf 2017"). Mae diwygiadau i adran 60 nad ydynt yn berthnasol i'r Rheoliadau hyn.

(1) 1989 c. 29. *See* section 36(10) for the definition of "appropriate authority". Section 36(8A) was inserted by paragraph 47 of Schedule 6 to the Wales Act 2017 (c. 4) ("the 2017 Act"). There are amendments to section 60 which are not relevant to these Regulations.

(2) Yn y Rheoliadau hyn—

ystyr “cais” (“*application*”) yw cais i Weinidogion Cymru o dan adran 36(1) o Ddeddf Trydan 1989 am gydsyniad i adeiladu, estyn neu weithredu gorsaf gynhyrchu alltraeth, ynghyd ag unrhyw gais o dan adran 36A(2) o’r Ddeddf honno am ddatganiad sy’n ymwneud â hawliau mordwyo sy’n cael ei wneud gyda’r cais o dan adran 36; ac

ystyr “colofn 3” (“*column 3*”) yw colofn 3 o’r tabl yn yr Atodlen i’r Rheoliadau hyn.

Ffioedd

2.—(1) Rhaid i’r ceisydd dalu ffi i Weinidogion Cymru am wneud cais.

(2) Y ffi yw cyfanswm—

- (a) y ffi gychwynnol yn unol â rheoliad 3;
- (b) y ffi ar gyfer archwilio cais a gyfrifir yn unol â rheoliad 4; ac
- (c) y ffi ar gyfer gwneud penderfyniad ynghylch cais a gyfrifir yn unol â rheoliad 5.

Y ffi gychwynnol

3.—(1) Pan fo cais yn cael ei wneud i Weinidogion Cymru, rhaid talu ffi gychwynnol i Weinidogion Cymru (“y ffi gychwynnol”).

(2) Y ffi gychwynnol yw’r swm a nodir yn rhes 1 o golofn 3.

(3) Rhaid i’r ffi gychwynnol fynd gyda’r cais.

Y ffi archwilio

4.—(1) Rhaid talu ffi i Weinidogion Cymru am archwilio cais (“y ffi archwilio”).

(2) Mae’r ffi archwilio i’w gyfrifo fel cyfanswm—

- (a) nifer y diwrnodau neu ran o ddiwrnod a dreulir yn archwilio cais wedi ei luosi â—

(2) In these Regulations—

“application” (“*cais*”) means an application to the Welsh Ministers under section 36(1) of the Electricity Act 1989 for consent to construct, extend or operate an offshore generating station, together with any application under section 36A(2) of that Act for a declaration relating to rights of navigation which is made with the application under section 36; and

“column 3” (“*colofn 3*”) means column 3 of the table in the Schedule to these Regulations.

Fees

2.—(1) A fee must be paid to the Welsh Ministers by the applicant for making an application.

(2) The fee is the aggregate of—

- (a) the initial fee in accordance with regulation 3;
- (b) the fee for examination of an application calculated in accordance with regulation 4; and
- (c) the fee for determination of an application calculated in accordance with regulation 5.

The initial fee

3.—(1) Where an application is made to the Welsh Ministers, an initial fee must be paid to the Welsh Ministers (the “initial fee”).

(2) The initial fee is the amount stated in row 1 of column 3.

(3) The initial fee must accompany the application.

The examination fee

4.—(1) A fee must be paid to the Welsh Ministers for examining an application (“the examination fee”).

(2) The examination fee is to be calculated as the aggregate of—

- (a) the number of days or part of a day spent examining the application multiplied by—

(1) Diwygiwyd adran 36 gan adran 93(1) a (3) o Ddeddf Ynni 2004 (p. 20) (“Deddf 2004”), paragraffau 31 a 32 o Atodlen 2 i Ddeddf Cynllunio 2008 (p. 29), adran 12(7) ac (8) o Ddeddf y Môr a Mynediad i’r Arfordir 2009 (p. 23) (“Deddf 2009”), adran 78 o Ddeddf Ynni 2016 (p. 20) ac adran 39(7) i (11) o Ddeddf 2017 a pharagraff 47 o Atodlen 6 iddi. Mae diwygiadau eraill i adran 36 nad ydynt yn berthnasol i’r Rheoliadau hyn.

(2) Mewnosodwyd adran 36A gan adran 99 o Ddeddf 2004 ac fe’i diwygiwyd gan adran 12(7) ac (8) o Ddeddf 2009 ac adran 40(1) i (5) o Ddeddf 2017.

(1) Section 36 was amended by section 93(1) and (3) of the Energy Act 2004 (c. 20) (“the 2004 Act”), paragraph 31 and 32 of Schedule 2 to the Planning Act 2008 (c. 29), section 12(7) and (8) of the Marine and Coastal Access Act 2009 (c. 23) (“the 2009 Act”), section 78 of the Energy Act 2016 (c. 20) and section 39(7) to (11) of, and paragraph 47 of Schedule 6 to, the 2017 Act. Other amendments to section 36 are not relevant to these Regulations.

(2) Section 36A was inserted by section 99 of the 2004 Act and amended by section 12(7) and (8) of the 2009 Act and section 40(1) to (5) of the 2017 Act.

- (i) pan fo cais yn cael ei archwilio drwy wrandawriad neu ymchwiliad, y gyfradd ddyddiol a nodir yn rhes 2 o golofn 3;
- (ii) ym mhob achos arall, y gyfradd ddyddiol a nodir yn rhes 3 o golofn 3; a

(b) unrhyw gostau ac alldaliadau yr eir iddynt mewn gwirionedd gan Weinidogion Cymru neu ar ran Gweinidogion Cymru mewn cysylltiad ag archwilio'r cais.

(3) Rhaid i Weinidogion Cymru, cyn gynted ag y bo'n rhesymol ymarferol, roi amcangyfrif ysgrifenedig i'r ceisydd o nifer y diwrnodau y disgwylir eu cymryd i archwilio'r cais.

(4) Caiff Gweinidogion Cymru ddiwygio'r amcangyfrif y cyfeirir ato ym mharagraff (3) ar unrhyw adeg.

(5) Caiff Gweinidogion Cymru anfonebu'r ceisydd ar gyfnodau rhesymol mewn cysylltiad â nifer y dyddiau a dreulir mewn gwirionedd yn archwilio'r cais ac unrhyw gostau yr eir iddynt wrth archwilio'r cais.

(6) Rhaid i Weinidogion Cymru gael unrhyw ffi sy'n ddyledus o dan y rheoliad hwn o fewn y cyfnod o 21 o ddiwrnodau gan ddechrau â'r dyddiad yr anfonir yr anfoneb berthnasol.

(7) Os bydd y ceisydd yn methu â thalu unrhyw ffi sy'n ddyledus o dan y rheoliad hwn o fewn y cyfnod a bennir ym mharagraff (6), nid oes angen i Weinidogion Cymru gymryd unrhyw gamau pellach mewn perthynas â'r cais hyd nes i Weinidogion Cymru gael y taliad.

(8) Os bydd y ceisydd yn methu â thalu unrhyw ffi sy'n ddyledus o dan y rheoliad hwn o fewn y cyfnod o 12 wythnos sy'n dechrau pan fydd y cyfnod a bennir ym mharagraff (6) yn dod i ben, bernir bod y cais wedi ei dynnu'n ôl.

(9) Mae'r ffi archwilio yn parhau i fod yn daladwy er gwaethaf tynnu'r cais yn ôl.

(10) Yn y rheoliad hwn, bernir bod "diwrnod" yn 7.4 awr.

Y ffi benderfynu

5.—(1) Rhaid talu ffi i Weinidogion Cymru am benderfyniad ynghylch cais ("y ffi benderfynu").

(2) Y ffi benderfynu yw cyfanswm—

- (a) ffi benodedig sef y swm a nodir yn rhes 4 o golofn 3; a
- (b) unrhyw gostau ac alldaliadau yr eir iddynt mewn gwirionedd gan Weinidogion Cymru neu ar ran Gweinidogion Cymru mewn cysylltiad â gwneud penderfyniad ynghylch y cais.

- (i) where an application is examined by way of hearing or inquiry, the daily rate set out in row 2 of column 3;
- (ii) in all other cases, the daily rate set out in the row 3 of column 3; and

(b) any costs and disbursements actually incurred by or on behalf of the Welsh Ministers in connection with examining the application.

(3) The Welsh Ministers must give the applicant as soon as reasonably practicable an estimate in writing of the number of days examination of the application is likely to take.

(4) The Welsh Ministers may revise the estimate referred to in paragraph (3) at any time.

(5) The Welsh Ministers may invoice the applicant at reasonable intervals in respect of the number of actual days spent and for any costs incurred in examining the application.

(6) Any fee due under this regulation must be received by the Welsh Ministers within the period of 21 days beginning with the date the relevant invoice is sent.

(7) If the applicant fails to pay any fee due under this regulation within the period specified in paragraph (6), the Welsh Ministers need take no further steps in relation to the application until payment has been received by the Welsh Ministers.

(8) If the applicant fails to pay any fee due under this regulation within the period of 12 weeks beginning on the expiry of the period specified in paragraph (6), the application is deemed to have been withdrawn.

(9) The examination fee remains payable notwithstanding withdrawal of an application.

(10) In this regulation, a "day" is deemed to consist of 7.4 hours.

The determination fee

5.—(1) A fee must be paid to the Welsh Ministers for determining an application ("the determination fee").

(2) The determination fee is the aggregate of—

- (a) a fixed fee in the amount set out in row 4 of column 3; and
- (b) any costs and disbursements actually incurred by or on behalf of the Welsh Ministers in connection with determining the application.

(3) Mae'r costau y cyfeirir atynt ym mharagraff (2)(b) yn cynnwys unrhyw gostau cyfreithiol rhesymol neu alldaliadau eraill yr eir iddynt neu a delir gan Weinidogion Cymru neu ar ran Gweinidogion Cymru mewn cysylltiad â gwneud penderfyniad ynghylch cais.

(4) Caiff Gweinidogion Cymru anfonebu'r ceisydd—

- (a) ar gyfer y ffi benodedig ar unrhyw adeg ar ôl gorffen archwilio'r cais, a
- (b) mewn cysylltiad â chostau ac alldaliadau ar gyfnodau rhesymol.

(5) Rhaid i Weinidogion Cymru gael unrhyw ffi sy'n ddyledus o dan y rheoliad hwn o fewn y cyfnod o 21 o ddiwrnodau gan ddechrau â'r dyddiad yr anfonir yr anfoneb berthnasol.

(6) Os bydd y ceisydd yn methu â thalu unrhyw ffi sy'n ddyledus o dan y rheoliad hwn o fewn y cyfnod a bennir ym mharagraff (5), nid oes angen i Weinidogion Cymru gymryd unrhyw gamau pellach mewn perthynas â'r cais hyd nes iddynt gael y taliad.

(7) Os bydd y ceisydd yn methu â thalu unrhyw ffi sy'n ddyledus o dan y rheoliad hwn o fewn y cyfnod o 12 wythnos sy'n dechrau pan fydd y cyfnod a bennir ym mharagraff (5) yn dod i ben, bennir bod y cais wedi ei dynnu'n ôl.

(8) Mae'r ffi benderfynu yn parhau i fod yn daladwy er gwaethaf tynnu'r cais yn ôl.

(3) The costs referred to in paragraph (2)(b) include any reasonable legal costs or other disbursements incurred or paid by or on behalf of the Welsh Ministers in connection with determining the application.

(4) The Welsh Ministers may invoice the applicant—

- (a) for the fixed fee at any time after conclusion of examination of the application, and
- (b) in respect of costs and disbursements at reasonable intervals.

(5) Any fee due under this regulation must be received by the Welsh Ministers within the period of 21 days beginning with the date the relevant invoice is sent.

(6) If the applicant fails to pay any fee due under this regulation within the period specified in paragraph (5), the Welsh Ministers need take no further steps in relation to the application until payment has been received by them.

(7) If the applicant fails to pay any fee due under this regulation within the period of 12 weeks beginning on the expiry of the period specified in paragraph (5), the application is deemed to have been withdrawn.

(8) The determination fee remains payable notwithstanding withdrawal of the application.

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

YR ATODLEN

Rheoliadau 3(2), 4(2)(a)(i), 4(2)(a)(ii) a 5(2)(a)

Ffioedd penodedig a chyfraddau dyddiol

Y Tabl

<i>Colofn 1</i>	<i>Colofn 2</i>	<i>Colofn 3</i>
<i>Y Rheoliad</i>	<i>Y Pwnc</i>	<i>Y Ffi</i>
3(2)	Y ffi gychwynnol	£15,350
4(2)(a)(i)	Y gyfradd ddyddiol pan fo cais yn cael ei archwilio mewn gwrandawriad neu ymchwiliad	£920 heb gynnwys treth ar werth os oes peth
4(2)(a)(ii)	Y gyfradd ddyddiol ym mhob achos arall	£870 heb gynnwys treth ar werth os oes peth
5(2)(a)	Y ffi benderfynu	£14,700

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SCHEDULE

Regulations 3(2), 4(2)(a)(i), 4(2)(a)(ii) and 5(2)(a)

Fixed fees and daily rates

Table

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Regulation</i>	<i>Subject matter</i>	<i>Fee</i>
3(2)	Initial fee	£15,350
4(2)(a)(i)	Daily rate where an application is examined at a hearing or inquiry	£920 exclusive of value added tax if any
4(2)(a)(ii)	Daily rate in all other cases	£870 exclusive of value added tax if any
5(2)(a)	Determination fee	£14,700

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