



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2015 Rhif 1822 (Cy. 264)

**CYNLLUNIO GWLAD A
THREF, CYMRU**

**Rheoliadau Cynllunio Gwlad a
Thref (Penderfynu ar Apelau gan
Bersonau Penodedig) (Dosbarthau
Rhagnodedig) (Cymru) 2015**

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn dirymu ac yn disodli, gyda rhai newidiadau, Reoliadau Cynllunio Gwlad a Thref (Penderfynu ar Apelau gan Bersonau Penodedig) (Dosbarthau Rhagnodedig) 1997, o ran Cymru.

Mae rheoliad 3 yn rhagnodi'r dosbarthau o apelau a wneir o dan Ddeddf Cynllunio Gwlad a Thref 1990, Deddf Cynllunio (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1990 a Deddf Cynllunio (Sylweddau Peryglus) 1990 sydd i'w penderfynu gan bersonau a benodir gan Weinidogion Cymru, yn hytrach na'u penderfynu gan Weinidogion Cymru.

Mae rheoliad 4 yn rhagnodi dosbarthau penodol o achosion, o fewn y dosbarthau o apelau a ragnodir o dan reoliad 3, sydd i barhau i gael eu penderfynu gan Weinidogion Cymru.

Mae rheoliad 5 yn gwneud darpariaeth am gyhoeddi unrhyw gyfarwyddyd a wneir gan Weinidogion Cymru sy'n pennu'r dosbarthau o achosion, o fewn y dosbarthau o apelau yn rheoliad 3, sydd i'w penderfynu gan Weinidogion Cymru.

Mae rheoliad 6 yn gwneud darpariaeth dirymu ac arbed.

Mae Asesiad Effaith Rheoleiddiol sy'n gymwys i'r Rheoliadau hyn ar gael gan Lywodraeth Cymru yn: Parc Cathays, Caerdydd CF10 3NQ ac ar wefan Llywodraeth Cymru yn www.llyw.cymru.

2015 No. 1822 (W. 264)

**TOWN AND COUNTRY
PLANNING, WALES**

**The Town and Country Planning
(Determination of Appeals by
Appointed Persons) (Prescribed
Classes) (Wales) Regulations 2015**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace, with some changes, the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997, in relation to Wales.

Regulation 3 prescribes the classes of appeals made under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning (Hazardous Substances) Act 1990 which are to be determined by persons appointed by the Welsh Ministers, instead of by the Welsh Ministers.

Regulation 4 prescribes certain classes of case, within the classes of appeal prescribed under regulation 3, which are to continue to be determined by the Welsh Ministers.

Regulation 5 makes provision about the publication of any direction made by the Welsh Ministers specifying the classes of case, within the classes of appeal prescribed in regulation 3, which are to be determined by the Welsh Ministers.

Regulation 6 makes revocation and saving provision.

The Regulatory Impact Assessment applicable to these Regulations is obtainable from the Welsh Government at: Cathays Park, Cardiff CF10 3NQ and on the Welsh Government website at www.gov.wales.

2015 Rhif 1822 (Cy. 264)

**CYNLLUNIO GWLAD A
THREF, CYMRU**

**Rheoliadau Cynllunio Gwlad a
Thref (Penderfynu ar Apelau gan
Bersonau Penodedig) (Dosbarthau
Rhagnodedig) (Cymru) 2015**

Gwnaed 20 Hydref 2015

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 26 Hydref 2015

Yn dod i rym 16 Rhagfyr 2015

2015 No. 1822 (W. 264)

**TOWN AND COUNTRY
PLANNING, WALES**

**The Town and Country Planning
(Determination of Appeals by
Appointed Persons) (Prescribed
Classes) (Wales) Regulations 2015**

Made 20 October 2015

Laid before the National Assembly for Wales
26 October 2015

Coming into force 16 December 2015

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adran 333 o Ddeddf Cynllunio Gwlad a Thref 1990(1) a pharagraff 1 o Atodlen 6 iddi, adran 93 o Ddeddf Cynllunio (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1990(2) a pharagraff 1 o Atodlen 3 iddi ac adran 40 o Ddeddf Cynllunio (Sylweddau Peryglus) 1990(3) a pharagraff 1 o'r Atodlen iddi, sydd bellach yn arferadwy ganddynt hwy(4), yn gwneud y Rheoliadau a ganlyn:

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Cynllunio Gwlad a Thref (Penderfynu ar Apelau gan

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by section 333 of and paragraph 1 of Schedule 6 to the Town and Country Planning Act 1990(1), section 93 of and paragraph 1 of Schedule 3 to the Planning (Listed Buildings and Conservation Areas) Act 1990(2) and section 40 of and paragraph 1 of the Schedule to the Planning (Hazardous Substances) Act 1990(3), now exercisable by them(4), make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Town and Country Planning (Determination of Appeals by

(1) 1990 p. 8; diwygiwyd paragraff 1 o Atodlen 6 gan baragraff 44 o Atodlen 22 i Ddeddf yr Amgylchedd 1995 (p. 25) a chan adran 198(1) a (2)(a) o Ddeddf Cynllunio 2008 (p. 29).

(2) 1990 p. 9.

(3) 1990 p. 10.

(4) Trosglwyddwyd swyddogaethau perthnasol yr Ysgrifennydd Gwladol, i'r graddau y maent yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru gan Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672); gweler y cofnod yn Atodlen 1 ar gyfer Deddf Cynllunio Gwlad a Thref 1990 a gweler adran 118(3) o Ddeddf Cynllunio a Phrynu Gorfodol 2004 (p. 5). Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (p. 32) a pharagraffau 30 a 32 o Atodlen 11 iddi.

(1) 1990 c. 8; paragraph 1 of Schedule 6 was amended by paragraph 44 of Schedule 22 to the Environment Act 1995 (c. 25) and by section 198(1) and (2)(a) of the Planning Act 2008 c. 29.

(2) 1990 c. 9.

(3) 1990 c. 10.

(4) The relevant functions of the Secretary of State, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the entry in Schedule 1 for the Town and Country Planning Act 1990 and see section 118(3) of the Planning and Compulsory Purchase Act 2004 (c. 5). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 30 and 32 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

Bersonau Penodedig) (Dosbarthau Rhagnodedig) (Cymru) 2015 a deuant i rym ar 16 Rhagfyr 2015.

(2) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

Dehongli

2. Yn y Rheoliadau hyn—

ystyr “y brif Ddeddf” (“*the principal Act*”) yw Deddf Cynllunio Gwlad a Thref 1990;

ystyr “y Ddeddf Adeiladau Rhestredig” (“*the Listed Buildings Act*”) yw Deddf Cynllunio (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1990;

ystyr “y Ddeddf Sylweddau Peryglus” (“*the Hazardous Substances Act*”) yw Deddf Cynllunio (Sylweddau Peryglus) 1990;

ystyr “Rheoliadau 1997” (“*the 1997 Regulations*”) yw Rheoliadau Cynllunio Gwlad a Thref (Penderfynu ar Apelau gan Bersonau Penodedig) (Dosbarthiadau Rhagnodedig) 1997(1);

ystyr “Rheoliadau 2009” (“*the 2009 Regulations*”) yw Rheoliadau Cynllunio Gwlad a Thref (Asesu Effeithiau Amgylcheddol) (Adolygiadau Amhenderfynedig o Hen Ganiatadau Mwynau) (Cymru) 2009(2); ac

ystyr “ymgymerwyr statudol” yw ymgymerywyr statudol o fewn yr ystyr a roddir i “statutory undertakers” yn adran 262 o'r brif Ddeddf a phersonau eraill y bernir eu bod, yn rhinwedd is-adran (3) neu (6) o'r adran honno(3), yn ymgymerywyr statudol at ddibenion adran 266 o'r Ddeddf honno.

Dosbarthau o apelau sydd i'w penderfynu gan bersonau penodedig

3.—(1) Yn ddarostyngedig i reoliad 4, mae'r dosbarthau o apelau a ganlyn wedi eu rhagnodi at ddibenion paragraff 1(1) o Atodlen 6 i'r brif Ddeddf fel apelau sydd i'w penderfynu gan berson a benodir gan Weinidogion Cymru—

Appointed Persons) (Prescribed Classes) (Wales) Regulations 2015 and they come into force on 16 December 2015.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

“the principal Act” (“*y brif Ddeddf*”) means the Town and Country Planning Act 1990;

“the Hazardous Substances Act” (“*y Ddeddf Sylweddau Peryglus*”) means the Planning (Hazardous Substances) Act 1990;

“the Listed Buildings Act” (“*y Ddeddf Adeiladau Rhestredig*”) means the Planning (Listed Buildings and Conservation Areas) Act 1990;

“the 1997 Regulations” (“*Rheoliadau 1997*”) means the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997(1);

“the 2009 Regulations” (“*Rheoliadau 2009*”) means the Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009(2); and

“statutory undertakers” (“*ymgymerwyr statudol*”) means statutory undertakers within the meaning of section 262 of the principal Act and other persons who, by virtue of subsection (3) or (6) of that section(3), are deemed to be statutory undertakers for the purposes of section 266 of that Act.

Classes of appeal for determination by appointed persons

3.—(1) Subject to regulation 4, the following classes of appeal are prescribed for the purposes of paragraph 1(1) of Schedule 6 to the principal Act as appeals to be determined by a person appointed by the Welsh Ministers—

(1) O.S. 1997/420.

(2) O.S. 2009/3342 (Cy. 293).

(3) Diwygiwyd adran 262 gan O.S. 2001/1149, adran 76(7) o Ddeddf Cyfleustodau 2000 (p. 27), O.S. 2013/755 ac adran 37 o Ddeddf Trafnidiaeth 2000 (p. 38) a pharagraff 6(1), (2), (3) a (4) o Atodlen 5 iddi, adrannau 31 ac 84 o Ddeddf Cynllunio a Digolledu 1991 (p. 34), a pharagraff 22 o Atodlen 6 a Rhan II o Atodlen 19 iddi.

(1) S.I. 1997/420.

(2) S.I. 2009/3342 (W. 293).

(3) Section 262 was amended by S.I. 2001/1149, section 76(7) of the Utilities Act 2000 (c. 27), S.I. 2013/755 and section 37 of and paragraph 6(1), (2), (3) and (4) of Schedule 5 to the Transport Act 2000 (c. 38), sections 31 and 84, paragraph 22 of Schedule 6 and Part II of Schedule 19 to the Planning and Compensation Act 1991 (c. 34).

- (a) apelau o dan adran 78 o'r brif Ddeddf (apelau yn erbyn penderfyniadau cynllunio a methiant i wneud penderfyniadau o'r fath), gan gynnwys apelau o dan yr adran honno fel y'i cymhwysir gan reoliad 15 o Reoliadau Cynllunio Gwlad a Thref (Rheoli Hysbysebion) 1992(1) (apelau yn erbyn gwrthod cais am gydsyniad datganedig i arddangos hysbysiad neu fethiant i wneud penderfyniad ar gais o'r fath) ac apelau o dan yr adran honno fel y'i cymhwysir gan adran 198(3)(c) a (4) o'r brif Ddeddf (apelau yn ymwneud â gorchmynion cadw coed);
- (b) apelau o dan adran 174 o'r brif Ddeddf (apelau yn erbyn hysbysiadau gorfodi);
- (c) apelau o dan adran 195 o'r brif Ddeddf (apelau yn erbyn gwrthod cais am dystysgrif cyfreithlondeb defnydd neu ddatblygiad presennol neu arfaethedig neu fethiant i wneud penderfyniad ar gais o'r fath);
- (d) apelau o dan adran 208 o'r brif Ddeddf (apelau yn erbyn hysbysiadau adran 207—ailosod coed);
- (e) apelau o dan baragraff 11(1) o Atodlen 13 a pharagraff 9(1) o Atodlen 14 i Ddeddf yr Amgylchedd 1995(2) (apelau yn erbyn penderfynu ar amodau i'w hatodi i ganiatadau mwynau), gan gynnwys apelau o dan y darpariaethau hynny fel y'u cymhwysir gan reoliad 45 o Reoliadau 2009 (apelau yn erbyn methiant i benderfynu); ac
- (f) apelau o dan baragraff 5 o Atodlen 2 i Ddeddf Cynllunio a Digolledu 1991(3) (apelau yn ymwneud â hen ganiatadau mwynloddio), gan gynnwys apelau o dan y ddarpariaeth honno fel y'i cymhwysir gan reoliad 45 o Reoliadau 2009.

(2) Mae'r dosbarthau o apelau a ganlyn wedi eu rhagnodi at ddibenion paragraff 1(1) o Atodlen 3 i'r Ddeddf Adeiladau Rhestredig fel apelau sydd i'w penderfynu gan berson a benodir gan Weinidogion Cymru—

- (a) apelau o dan adran 20 o'r Ddeddf Adeiladau Rhestredig (cydsyniad adeilad rhestredig), gan gynnwys apelau o dan yr adran honno sy'n cael effaith yn rhinwedd adran 74 o'r Ddeddf honno (ardaloedd cadwraeth); a

- (a) appeals under section 78 of the principal Act (appeals against planning decisions and failure to take such decisions), including appeals under that section as applied by regulation 15 of the Town and Country Planning (Control of Advertisements) Regulations 1992(1) (appeals against refusal of or failure to take decision on an application for express consent to display an advertisement) and appeals under that section as applied by section 198(3)(c) and (4) of the principal Act (appeals concerning tree preservation orders);
- (b) appeals under section 174 of the principal Act (appeals against enforcement notices);
- (c) appeals under section 195 of the principal Act (appeals against refusal of or failure to give decision on an application for a certificate of lawfulness of existing or proposed use or development);
- (d) appeals under section 208 of the principal Act (appeals against section 207 notices—replacement of trees);
- (e) appeals under paragraph 11(1) of Schedule 13 and paragraph 9(1) of Schedule 14 to the Environment Act 1995(2) (appeals against the determination of conditions to be attached to mineral permissions), including appeals under those provisions as applied by regulation 45 of the 2009 Regulations (appeals against non-determination); and
- (f) appeals under paragraph 5 of Schedule 2 to the Planning and Compensation Act 1991(3) (appeals relating to old mining permissions), including appeals under that provision as applied by regulation 45 of the 2009 Regulations.

(2) The following classes of appeal are prescribed for the purposes of paragraph 1(1) of Schedule 3 to the Listed Buildings Act as appeals to be determined by a person appointed by the Welsh Ministers—

- (a) appeals under section 20 of the Listed Buildings Act (listed building consent), including appeals under that section as having effect by virtue of section 74 of that Act (conservation areas); and

(1) O.S. 1992/666.

(2) 1995 p. 25.

(3) 1991 p. 34.

(1) S.I. 1992/666.

(2) 1995 c. 25.

(3) 1991 c. 34.

- (b) apelau o dan adran 39 o'r Ddeddf Adeiladau Rhestredig (hysbysiadau gorfodi adeilad rhestredig), gan gynnwys apelau o dan yr adran honno sy'n cael effaith yn rhinwedd adran 74 o'r Ddeddf honno.

(3) Mae apelau o dan adran 21 o'r Ddeddf Sylweddau Peryglus (apelau yn erbyn penderfyniadau yn ymwneud â sylweddau peryglus neu fethiant i wneud penderfyniadau o'r fath) wedi eu rhagnodi at ddibenion paragraff 1(1) o'r Atodlen i'r Ddeddf Sylweddau Peryglus fel apelau sydd i'w penderfynu gan berson a benodir gan Weinidogion Cymru.

Dosbarthau o apelau a gedwir yn ôl i'w penderfynu gan Weinidogion Cymru

4.—(1) Nid yw rheoliad 3 yn gymwys i'r dosbarthau o apelau a ganlyn—

- (a) apelau o dan adran 78 o'r brif Ddeddf gan ymgwymerwyr statudol pan oedd y cais perthnasol yn ymwneud â thir y mae adran 266 o'r Ddeddf honno⁽¹⁾ (ceisiadau am ganiatâd cynllunio gan ymgwymerwyr statudol) yn gymwys;
- (b) apelau o dan adran 174 o'r brif Ddeddf gan ymgwymerwyr statudol pan fo'r torri rheolaeth gynllunio a honnir yn yr hysbysiad gorfodi yn cynnwys ymgymryd â datblygiad ar dir y mae adran 266 o'r Ddeddf honno yn gymwys iddo, neu fethiant i gydymffurfio ag amod neu gyfyngiad sydd ynghlwm wrth roi caniatâd cynllunio ar gyfer datblygu unrhyw dir o'r fath; neu
- (c) apelau y mae Gweinidogion Cymru neu'r Gweinidog priodol wedi rhoi cyfarwyddyd i adran 266 o'r brif Ddeddf gael effaith mewn perthynas â hwy (ac nad yw'r cyfarwyddyd wedi ei ddirymu).

Cyhoeddusrwydd ar gyfer cyfarwyddydau

5.—(1) Os gwneir cyfarwyddyd o dan—

- (a) paragraff 1(2) o Atodlen 6 i'r brif Ddeddf;
- (b) paragraff 1(2) o Atodlen 3 i'r Ddeddf Adeiladau Rhestredig; neu
- (c) paragraff 1(2) o'r Atodlen i'r Ddeddf Sylweddau Peryglus,

- (b) appeals under section 39 of the Listed Buildings Act (listed building enforcement notices), including appeals under that section as having effect by virtue of section 74 of that Act.

(3) Appeals under section 21 of the Hazardous Substances Act (appeals against decisions or failure to take decisions relating to hazardous substances) are prescribed for the purposes of paragraph 1(1) of the Schedule to the Hazardous Substances Act as appeals to be determined by a person appointed by the Welsh Ministers.

Classes of appeal reserved for determination by the Welsh Ministers

4.—(1) Regulation 3 does not apply to the following classes of appeal—

- (a) appeals under section 78 of the principal Act by statutory undertakers where the relevant application related to land to which section 266 of that Act⁽¹⁾ (applications for planning permission by statutory undertakers) applies;
- (b) appeals under section 174 of the principal Act by statutory undertakers where the breach of planning control alleged in the enforcement notice consists of the carrying out of development on land to which section 266 of that Act applies, or failure to comply with a condition or limitation on a grant of planning permission for development of any such land; or
- (c) appeals in relation to which the Welsh Ministers or the appropriate Minister have given a direction for section 266 of the principal Act to have effect (and the direction has not been revoked).

Publicity for directions

5.—(1) If a direction is made under—

- (a) paragraph 1(2) of Schedule 6 to the principal Act;
- (b) paragraph 1(2) of Schedule 3 to the Listed Buildings Act; or
- (c) paragraph 1(2) of the Schedule to the Hazardous Substances Act,

⁽¹⁾ Diwygiwyd adran 266 o'r brif Ddeddf gan O.S. [*insert Section 203 Order number when made*] ac adrannau 32 ac 84 o Ddeddf Cynllunio a Digolledu 1991 (p. 34), a pharagraff 40 o Atodlen 7 a Rhan I o Atodlen 19 iddi.

⁽¹⁾ Section 266 of the principal Act was amended by S.I. [*insert Section 203 Order number when made*] and sections 32 and 84 of and paragraph 40 of Schedule 7 and Part I of Schedule 19 to the Planning and Compensation Act 1991 (c. 34).

caiff Gweinidogion Cymru ei gwneud yn ofynnol i'r awdurdod cynllunio lleol ar gyfer pob ardal y mae'r cyfarwyddyd yn cael effaith mewn cysylltiad â hi gyhoeddi hysbysiad o'r cyfarwyddyd mewn o leiaf un papur newydd sy'n cylchredeg yn yr ardal.

(2) Rhaid i'r hysbysiad gynnwys—

- (a) datganiad cryno o effaith y cyfarwyddyd; a
- (b) manylion ynghylch ble y gellir edrych ar gopi o'r cyfarwyddyd.

Dirymu ac arbed

6.—(1) Mae Rheoliadau 1997 wedi eu dirymu ac eithrio mewn perthynas ag apelau y rhoddwyd hysbysiad mewn cysylltiad â hwy cyn i'r Rheoliadau hyn ddod i rym.

(2) Nid yw'r Rheoliadau hyn yn gymwys mewn cysylltiad ag apelau y cyfeirir atynt ym mharagraff (1).

the Welsh Ministers may require the local planning authority for every area in respect of which the direction has effect to publish notice of the direction in at least one newspaper circulating in the area.

(2) The notice must include—

- (a) a concise statement of the effect of the direction; and
- (b) details of where a copy of the direction may be inspected.

Revocation and saving

6.—(1) The 1997 Regulations are revoked except in relation to appeals in respect of which notice was given before these Regulations come into force.

(2) These Regulations do not apply in respect of appeals referred to in paragraph (1).

Carl Sargeant

Y Gweinidog Cyfoeth Naturiol, un o Weinidogion Cymru
20 Hydref 2015

Minister for Natural Resources, one of the Welsh Ministers
20 October 2015

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