



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2016 Rhif 358 (Cy. 111)

2016 No. 358 (W. 111)

**CYNLLUNIO GWLAD A
THREF, CYMRU**

**TOWN AND COUNTRY
PLANNING, WALES**

**Rheoliadau Datblygiadau o
Arwyddocâd Cenedlaethol (Meini
Prawf Penodedig a Chydsyniadau
Eilaidd Rhagnodedig) (Cymru)
(Diwygio) 2016**

**The Developments of National
Significance (Specified Criteria and
Prescribed Secondary Consents)
(Wales) (Amendment) Regulations
2016**

NODYN ESBONIADOL

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Meini Prawf Penodedig a Chydsyniadau Eilaidd Rhagnodedig) (Cymru) 2016 ("y Prif Reoliadau"). Mae'r Prif Reoliadau yn darparu bod adeiladu gorsaf cynhyrchu trydan o ynni'r gwynt ar y tir (fferm wynt ar y tir) sydd â gallu cynhyrchu rhwng 10 a 50 megawatt o arwyddocâd cenedlaethol at ddibenion adran 62D o Ddeddf Cynllunio Gwlad a Thref 1990. Maent hefyd yn darparu bod estyn neu addasu fferm wynt ar y tir o arwyddocâd cenedlaethol os mai effaith y gwaith estyn neu addasu bydd cynyddu'r gallu cynhyrchu gan o leiaf 10 megawatt ond nid fel bod y gallu cynhyrchu gosodedig yn uwch na 50 megawatt.

Mae'r Rheoliadau hyn yn diwygio'r meini prawf o ran bod adeiladu, estyn neu addasu fferm wynt ar y tir yn ddatblygiad o arwyddocâd cenedlaethol.

Nid yw'r diwygiadau a wneir i'r Prif Reoliadau yn cymryd effaith hyd nes bod Gorchymyn Gorsafoedd Cynhyrchu Trydan o Ynni'r Gwynt ar y Tir (Esemptiad) (Cymru a Lloegr) 2016 a Gorchymyn Cynllunio Seilwaith (Gorsafoedd Cynhyrchu Trydan o Ynni'r Gwynt ar y Tir) 2016 wedi dod i rym.

Effaith Gorchymyn Gorsafoedd Cynhyrchu Trydan o Ynni'r Gwynt ar y Tir (Esemptiad) (Cymru a Lloegr) 2016 yw nad oes angen cydsyniad gan yr Ysgrifennydd Gwladol ar gyfer ffermydd gwynt ar y tir yng Nghymru a Lloegr o dan adran 36(4) o Ddeddf Trydan 1989, yn ddarostyngedig i ddarpariaethau arbed.

These Regulations amend the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016 ("the Principal Regulations"). The Principal Regulations provide that the construction of an onshore wind generating station (an onshore wind farm) with a generating capacity of between 10 and 50 megawatts is of national significance for the purposes of section 62D of the Town and Country Planning Act 1990. They also provide that the extension or alteration of an onshore wind farm is of national significance if the effect of the extension or alteration will increase the generating capacity by at least 10 megawatts but not so that the installed generating capacity exceeds 50 megawatts.

These Regulations amend the criteria for the construction, extension or alteration of an onshore wind farm to be development of national significance.

The amendments made to the Principal Regulations do not take effect until the Onshore Wind Generating Stations (Exemption) (England and Wales) Order 2016 and the Infrastructure Planning (Onshore Wind Generating Stations) Order 2016 have come into force.

The effect of the Onshore Wind Generating Stations (Exemption) (England and Wales) Order 2016 is that onshore wind farms in England and Wales do not require consent from the Secretary of State under section 36(4) of the Electricity Act 1989, subject to saving provisions.

Effaith Gorchymyn Cynllunio Seilwaith (Gorsafoedd Cynhyrchu Trydan o Ynni'r Gwynt ar y Tir) 2016 yw nad oes angen cydsyniad datblygu mwyach ar gyfer adeiladu, addasu neu estyn ffermydd gwynt ar y tir yng Nghymru a Lloegr o dan Ddeddf Cynllunio 2008 ("Deddf 2008").

Mae rheoliad 3 yn diwygio rheoliad 4 o'r Prif Reoliadau. Mae'n diwygio'r diffiniad o "gorsaf gynhyrchu" ac yn mewnosod diffiniadau o "gorsaf cynhyrchu trydan o ynni'r gwynt ar y tir" a "y Gorchmynion".

Mae rheoliad 3 hefyd yn mewnosod rheoliad newydd 4A. Mae'r rheoliad newydd yn nodi'r meini prawf o ran bod adeiladu, estyn neu addasu fferm wynt ar y tir yn ddatblygiad o arwyddocâd cenedlaethol.

Effaith y diwygiadau yn rheoliad 3 yw bod rhaid cyflwyno ceisiadau ar gyfer caniatâd cynllunio i (a) adeiladu ffermydd gwynt ar y tir fydd â gallu cynhyrchu o 10 megawatt neu uwch, a (b) estyn neu addasu fferm wynt ar y tir mewn modd sy'n cynyddu ei gallu cynhyrchu disgwyledig gan 10 megawatt neu uwch, yng Nghymru i Weinidogion Cymru.

Gwneir darpariaethau arbed ar gyfer cydsyniadau o dan Ddeddf Trydan 1989, cydsyniadau datblygu o dan Ddeddf 2008 a cheisiadau ar gyfer cydsyniad datblygu o dan Ddeddf 2008 a dderbyniwyd gan yr Ysgrifennydd Gwladol.

Lluniwyd asesiad effaith mewn perthynas â'r Rheoliadau hyn. Gellir cael copïau oddi wrth yr Arolygiaeth Gynllunio, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

The effect of the Infrastructure Planning (Onshore Wind Generating Stations) Order 2016 is that the construction, alteration or extension of onshore wind farms in England and Wales no longer requires development consent under the Planning Act 2008 ("the 2008 Act").

Regulation 3 amends regulation 4 of the Principal Regulations. It amends the definition of "generating station" and inserts definitions for "onshore wind generating station" and "the Orders".

Regulation 3 also inserts a new regulation 4A. The new regulation sets out the criteria for the construction, extension or alteration of an onshore wind farm to be development of national significance.

The effect of the amendments in regulation 3 is that applications for planning permission for (a) the construction of onshore wind farms with a generating capacity of 10 megawatts or above, and (b) the extension or alteration of an onshore wind farm with an expected increased generating capacity of 10 megawatts or above, in Wales must be made to the Welsh Ministers.

Savings provisions are made for consents under the Electricity Act 1989, development consents under the 2008 Act and applications for development consent under the 2008 Act which have been accepted by the Secretary of State.

An impact assessment has been prepared in relation to these Regulations. Copies are available from the Planning Directorate of the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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THREF, CYMRU**

**Rheoliadau Datblygiadau o
Arwyddocâd Cenedlaethol (Meini
Prawf Penodedig a Chydsyniadau
Eilaidd Rhagnodedig) (Cymru)
(Diwygio) 2016**

Gwnaed 2 Mawrth 2016
Yn dod i rym 3 Mawrth 2016

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd iddynt gan adran 62D o Ddeddf Cynllunio Gwlad a Thref 1990(1) ac a roddwyd i'r Ysgrifennydd Gwladol gan adran 333 o'r Ddeddf honno(2) sydd bellach yn arferadwy ganddynt hwy(3), yn gwneud y Rheoliadau a ganlyn.

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Meini Prawf Penodedig a Chydsyniadau Eilaidd Rhagnodedig) (Cymru) (Diwygio) 2016 a deuant i rym drannoeth y diwrnod y'u gwneir.

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

2016 No. 358 (W. 111)

**TOWN AND COUNTRY
PLANNING, WALES**

**The Developments of National
Significance (Specified Criteria and
Prescribed Secondary Consents)
(Wales) (Amendment) Regulations
2016**

Made 2 March 2016
Coming into force 3 March 2016

The Welsh Ministers, in exercise of the powers conferred on them by section 62D of the Town and Country Planning Act 1990(1) and conferred on the Secretary of State by section 333 of that Act(2) now exercisable by them(3), make the following Regulations.

Title, commencement and application

1.—(1) The title of these Regulations is the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) (Amendment) Regulations 2016 and they come into force on the day after the day on which they are made.

(2) These Regulations apply to all land in Wales.

(1) 1990 p. 8. Mewnosodwyd Adran 62D gan adran 19 o Ddeddf Cynllunio (Cymru) 2015 (dccc 4).
(2) Diwygiwyd adran 333 o Ddeddf Cynllunio Gwlad a Thref 1990 gan adran 55 o Ddeddf Cynllunio (Cymru) 2015 a pharagraff 3 o Atodlen 7 iddi. Mae diwygiadau eraill i adran 333 nad ydynt yn berthnasol i'r Rheoliadau hyn.
(3) Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol i Gynulliad Cenedlaethol Cymru gan erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672), gweler yr eitem yn Atodlen 1 ar gyfer Deddf Cynllunio Gwlad a Thref 1990. 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. Section 62D was inserted by section 19 of the Planning (Wales) Act 2015 (anaw 4).
(2) Section 333 of the Town and Country Planning Act 1990 was amended by section 55 of, and paragraph 3 of Schedule 7 to, the Planning (Wales) Act 2015. There are other amendments to section 333 not relevant to these Regulations.
(3) The functions of the Secretary of State were transferred to the National Assembly for Wales by article 2 of 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. 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).

Diwygio Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Meini Prawf Penodedig a Chydsyniadau Eilaidd Rhagnodedig) (Cymru) 2016

2.—(1) Mae Rheoliadau Datblygiadau o Arwyddocâd Cenedlaethol (Meini Prawf Penodedig a Chydsyniadau Eilaidd Rhagnodedig) (Cymru) 2016(1) wedi eu diwygio fel a nodir yn rheoliad 3.

(2) Os nad yw—

- (a) Gorchymyn Gorsafoedd Cynhyrchu Trydan o Ynni'r Gwynt ar y Tir (Esemptiad) (Cymru a Lloegr) 2016(2); a
- (b) Gorchymyn Cynllunio Seilwaith (Gorsafoedd Cynhyrchu Trydan o Ynni'r Gwynt ar y Tir) 2016(3)

wedi dod i rym ar y diwrnod y daw'r Rheoliadau hyn i rym, nid yw'r diwygiadau a wneir gan reoliad 3 yn cael effaith hyd nes y bydd y Gorchymynion hynny wedi dod i rym.

3.—(1) Yn rheoliad 2 (Dehongli) yn y lle priodol mewnosoder “ystyr “Deddf 2008” (“*the 2008 Act*”) yw Deddf Cynllunio 2008(4)”.

(2) Yn rheoliad 3(1)(a) ar ôl “gorsaf gynhyrchu” mewnosoder “ac eithrio gorsaf cynhyrchu trydan o ynni'r gwynt ar y tir”;

(3) Ar ôl rheoliad 3(1)(a) mewnosoder—

“(aa) adeiladu, estyn neu addasu gorsaf cynhyrchu trydan o ynni'r gwynt ar y tir”;

(4) Yn rheoliad 4(3) (Gorsafoedd cynhyrchu)—

- (a) yn y diffiniad o “gorsaf gynhyrchu” (“*generating station*”) ar ôl “sy'n cynhyrchu trydan” mewnosoder “ond nid yw'n cynnwys gorsaf cynhyrchu trydan o ynni'r gwynt ar y tir”;

(b) mewnosoder yn y lle priodol—

“ystyr “gorsaf cynhyrchu trydan o ynni'r gwynt ar y tir” (“*onshore wind generating station*”) yw gorsaf gynhyrchu—

- (a) sy'n cynhyrchu trydan o ynni'r gwynt;
- (b) sydd wedi ei lleoli yng Nghymru, ond nid mewn dyfroedd yng Nghymru nac yn gyfagos â Chymru hyd at ffin y môr tiriogaethol i gyfeiriad y môr; ac
- (c) nad yw'n orsaf gynhyrchu y rhoddwyd cydsyniad mewn cysylltiad â hi—

Amendment of the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016

2.—(1) The Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016(1) are amended as set out in regulation 3.

(2) If —

- (a) the Onshore Wind Generating Stations (Exemption) (England and Wales) Order 2016(2); and
- (b) the Infrastructure Planning (Onshore Wind Generating Stations) Order 2016(3).

have not come into force on the day these Regulations come into force, the amendments made by regulation 3 do not have effect until those Orders have come into force.

3.—(1) In regulation 2 (Interpretation) at the appropriate place insert “the 2008 Act” (“*Deddf 2008*”) means the Planning Act 2008(4)”.

(2) In regulation 3(1)(a) after “generating station” insert “other than an onshore wind generating station”;

(3) After regulation 3(1)(a) insert—

“(aa) the construction, extension or alteration of an onshore wind generating station that generates electricity”;

(4) In regulation 4(3) (Generating stations)—

- (a) in the definition of “generating station” (“*gorsaf gynhyrchu*”) after “that generate electricity” insert “but does not include an onshore wind generating station”;

(b) at the appropriate place insert—

““onshore wind generating station” (“*gorsaf cynhyrchu trydan o ynni'r gwynt ar y tir*”) means a generating station which—

- (a) generates electricity from wind;
- (b) is situated in Wales but not in waters in or adjacent to Wales up to the seaward limits of the territorial sea; and
- (c) is not a generating station in respect of which a consent—

(1) O.S. 2016/53 (W.23).

(2) O.S. 2016/21

(3) O.S. 2016/306

(4) p. 29.

(1) S.I. 2016/53 (W.23)

(2) S.I. 2016/21

(3) S.I. 2016/306

(4) c. 29

- (i) o dan adran 36(1) o Ddeddf Trydan 1989(1); neu
- (ii) o dan adran 114 o Ddeddf 2008, cyn i'r Gorchmynion priodol ddod i rym ac sy'n parhau mewn grym, a
- (d) nad yw'n orsaf gynhyrchu—
 - (i) y mae cais ar gyfer gorchymyn sy'n rhoi cydsyniad datblygu mewn cysylltiad â hi wedi ei dderbyn gan yr Ysgrifennydd Gwladol o dan adran 55 o Ddeddf 2008 (Derbyn ceisiadau) ond nid yw wedi ei benderfynu cyn y dyddiad y daw'r Gorchmynion hyn i rym; neu
 - (ii) yn dilyn adolygiad barnwrol o unrhyw benderfyniad i wrthod derbyn cais am gydsyniad datblygu neu benderfyniad i wrthod cydsyniad datblygu, y mae cais ar gyfer gorchymyn sy'n rhoi cydsyniad datblygu mewn cysylltiad â hi wedi ei dderbyn gan yr Ysgrifennydd Gwladol, ond nid yw wedi ei benderfynu cyn y dyddiad y daw'r Gorchmynion i rym.
- (c) mewnosoder yn y lle priodol—

“ystyr “y Gorchmynion” (*“the Orders”*) yw—

 - (a) Gorchymyn Gorsafoedd Cynhyrchu Trydan o Ynni'r Gwynt ar y Tir (Esemptiad) (Cymru a Lloegr) 2016(2); a
 - (b) Gorchymyn Cynllunio Seilwaith (Gorsafoedd Cynhyrchu Trydan o Ynni'r Gwynt ar y Tir) 2016.”
- (d) Ar ôl rheoliad 4 mewnosoder—

“Gorsafoedd Cynhyrchu Trydan o Ynni'r Gwynt ar y Tir

4A.—(1) Nid yw adeiladu gorsaf cynhyrchu trydan o ynni'r gwynt ar y tir o fewn rheoliad 3(1)(aa) ac eithrio pan ddisgwylir i'r orsaf cynhyrchu trydan o ynni'r gwynt ar y tir (pan gaiff ei hadeiladu) fod â gallu cynhyrchu gosodedig o 10 megawatt neu uwch.

(2) Nid yw estyn neu addasu gorsaf cynhyrchu trydan o ynni'r gwynt ar y tir o fewn rheoliad 3(1)(a) ac eithrio pan ddisgwylir i effaith yr estyn neu'r addasu gynyddu'r gallu cynhyrchu gosodedig gan o leiaf 10 megawatt.

- (i) under section 36(1) of the Electricity Act 1989(1); or
- (ii) under section 114 of the 2008 Act, was granted prior to the respective coming into force of the Orders and remains in force.
- (d) is not a generating station in respect of which—
 - (i) an application for an order granting development consent has been accepted by the Secretary of State under section 55 of the 2008 Act (Acceptance of applications) but not decided before the day on which the Orders come into force; or
 - (ii) following a judicial review of any decision to refuse to accept an application for development consent or to refuse development consent, an application for an order granting development consent has been accepted by the Secretary of State, but not decided before the day on which the Orders come into force.
- (c) at the appropriate place insert—

““the Orders” (*“y Gorchmynion”*) means—

 - (a) the Onshore Wind Generating Stations (Exemption) (England and Wales) Order 2016(2); and
 - (b) the Infrastructure Planning (Onshore Wind Generating Stations) Order 2016”
- (d) After regulation 4 insert—

“Onshore Wind Generating Stations

4A.—(1) The construction of an onshore wind generating station is within regulation 3(1)(aa) only if the onshore wind generating station is expected to have (when constructed) an installed generating capacity of 10 megawatts or above.

(2) The extension or alteration of an onshore wind generating station is within regulation 3(1)(a) only if the effect of the extension or alteration is expected to increase the installed generating capacity by at least 10 megawatts.

(1) p. 29.
(2) O.S. 2016/21

(1) c. 29
(2) S.I. 2016/21

(3) Yn y rheoliad hwn mae i “gorsaf cynhyrchu trydan o ynni'r gwynt ar y tir” a “gallu cynhyrchu gosodedig” yr ystyron a roddir yn rheoliad 4(3).”

(3) In this regulation “onshore wind generating station” and “installed generating capacity” have the meanings given in regulation 4(3).”

Carl Sargeant

Y Gweinidog Cyfoeth Naturiol, un o Weinidogion
Cymru
2 Mawrth 2016

Minister for Natural Resources, one of the Welsh
Ministers
2 March 2016

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