



OFFERYNNAU STATUDOL  
CYMRU

WELSH STATUTORY  
INSTRUMENTS

**2019 Rhif 297 (Cy. 75)**

**2019 No. 297 (W. 75)**

**TRYDAN, CYMRU**

**ELECTRICITY, WALES**

Rheoliadau Trydan (Gorsafoedd  
Cynhyrchu Alltraeth) (Amrywio  
Cydsyniadau) (Cymru) 2019

The Electricity (Offshore  
Generating Stations) (Variation of  
Consents) (Wales) Regulations  
2019

**NODYN ESBONIADOL**

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

Mae'r Rheoliadau hyn yn gwneud darpariaeth ynghylch ceisiadau i Weinidogion Cymru i amrywio cydsyniadau i adeiladu, estyn a gweithredu gorsafoedd cynhyrchu trydan alltraeth penodol yn nyfroedd Cymru sydd wedi eu rhoi o dan adran 36 o Ddeddf Trydan 1989 ("Deddf 1989" a chydsyniadau o'r fath "cydsyniadau adran 36").

O dan adran 36C o Ddeddf 1989, caiff y person sydd am y tro â'r hawl i gael budd o'r cydsyniad adran 36, o 1 Ebrill 2019, wneud cais i Weinidogion Cymru i amrywio'r cydsyniad hwnnw pan fo'n ymwneud â gorsaf gynhyrchu (neu orsaf gynhyrchu arfaethedig) yn nyfroedd Cymru nad yw'n fwy na 350 megawat, neu na fydd yn fwy na 350 megawat pan fydd wedi ei hadeiladu neu wedi ei hestyn.

Ystyr "dyfroedd Cymru" yw hynny o ddyfroedd mewnol a môr tiriogaethol y Deyrnas Unedig sy'n gyfagos i Gymru, a pharth Cymru (o fewn ystyr Deddf Llywodraeth Cymru 2006).

Mae'r Rheoliadau hyn yn gwneud darpariaeth ynghylch—

- (a) yr hyn y mae rhaid ei gynnwys mewn cais amrywio neu y mae rhaid mynd gyda chais amrywio;
- (b) gofynion hysbysu a chyhoeddusrwydd;
- (c) pryd y mae ymchwiliadau cyhoeddus i'w cynnal;

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision about applications to the Welsh Ministers to vary consents for the construction, extension and operation of certain offshore electricity generating stations in Welsh waters that have been granted under section 36 of the Electricity Act 1989 ("the 1989 Act" and such consents "section 36 consents").

Under section 36C of the 1989 Act the person for the time being entitled to the benefit of the section 36 consent may, from 1 April 2019, apply to the Welsh Ministers for that consent to be varied where it relates to a generating station (or proposed generating station) in Welsh waters that does not or will not when constructed or extended exceed 350 megawatts.

"Welsh waters" means so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Wales, and the Welsh zone (within the meaning of the Government of Wales Act 2006).

These Regulations make provision about—

- (a) what must be included in or accompany a variation application;
- (b) notification and publicity requirements;
- (c) when public inquiries are to be held;

- (d) tynnu ceisiadau amrywio yn ôl; ac
- (e) estyn yr amser a ganiateir ar gyfer cam penodol o dan y Rheoliadau hyn.

Mae Rheoliadau Gorsafoedd Cynhyrchu Trydan (Amrywio Cydsyniadau) (Cymru a Lloegr) 2013 wedi eu dirymu i'r graddau y maent yn gymwys i gais i Weinidogion Cymru o dan adran 36C o Ddeddf 1989.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

- (d) the withdrawal of variation applications; and
- (e) extending the time allowed for a given step under these Regulations.

The Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013 are revoked so far as they apply to an application to the Welsh Ministers under section 36C of the 1989 Act.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

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The Electricity (Offshore  
Generating Stations) (Variation of  
Consents) (Wales) Regulations  
2019

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

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

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir iddynt gan adrannau 36C(2) a (6) 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 36C(2) and (6) and 60 of the Electricity Act 1989(1), make the following Regulations:

**Enwi a chychwyn**

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

**Title and commencement**

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

**Dehongli**

2. Yn y Rheoliadau hyn—

ystyr “awdurdod cynllunio perthnasol” (“*relevant planning authority*”) yn achos cais amrywio, neu wrth ofyn am gyfarwyddyd adran 90 i fynd gyda chais amrywio, yw unrhyw un o'r cyrff a ganlyn—

(a) awdurdod cynllunio lleol (o fewn ystyr Rhan 1 o Ddeddf 1990 (awdurdodau cynllunio lleol: cyffredinol)) yng Nghymru a Lloegr;

(b) Adran yr Amgylchedd yng Ngogledd Iwerddon,

**Interpretation**

2. In these Regulations—

“the Act” (“*y Ddeddf*”) means the Electricity Act 1989;

“the 1990 Act” (“*Deddf 1990*”) means the Town and Country Planning Act 1990(2);

“the EIA Regulations” (“*y Rheoliadau AEA*”) means the Electricity Works (Environmental

(1) 1989 p. 29. Mewnosodwyd adran 36C gan adran 20(1) a (2) o Ddeddf Twf a Seilwaith 2013 (p. 27) (“*Deddf 2013*”) ac fe'i diwygiwyd gan adran 39(12) o Ddeddf Cymru 2017 (p. 4) (“*Deddf 2017*”) a pharagraff 48 o Atodlen 6 iddi. Mae diwygiadau i adran 60 nad ydynt yn berthnasol i'r Rheoliadau hyn.

(1) 1989 c. 29. Section 36C was inserted by section 20(1) and (2) of the Growth and Infrastructure Act 2013 (c. 27) (“*the 2013 Act*”) and was amended by section 39(12) of, and paragraph 48 of Schedule 6 to, the Wales Act 2017 (c. 4) (“*the 2017 Act*”). Amendments to section 60 are not relevant to these Regulations.

(2) 1990 c. 8.

sydd wedi eu nodi gan y ceisydd o dan reoliad 3(1)(e) neu gan Weinidogion Cymru o dan reoliad 4(7);

ystyr “cais amrywio” (“*variation application*”) yw cais i Weinidogion Cymru i amrywio cydsyniad adran 36 a wneir o dan adran 36C(1) o’r Ddeddf;

ystyr “ceisydd” (“*applicant*”) yw person sy’n cael budd o’r cydsyniad adran 36 ac sy’n gwneud cais amrywio mewn cysylltiad ag ef;

ystyr “cydsyniad adran 36” (“*section 36 consent*”) yw cydsyniad o dan adran 36 o’r Ddeddf(1) (cydsyniad sy’n ofynnol ar gyfer adeiladu etc. gorsafoedd cynhyrchu) gan gynnwys unrhyw amrywiadau i’r cydsyniad hwnnw a wneir o dan adran 36C(4) o’r Ddeddf sy’n ymwneud â gorsaf gynhyrchu yn nyfroedd Cymru (o fewn ystyr adran 36 o’r Ddeddf) nad yw’n fwy na 350 megawat neu na fydd yn fwy na 350 megawat pan fydd wedi ei hadeiladu neu wedi ei hestyn;

ystyr “cydsyniad adran 36 perthnasol” (“*relevant section 36 consent*”) yw’r cydsyniad adran 36 y gwneir cais amrywio mewn cysylltiad ag ef;

ystyr “cyfarwyddyd adran 90” (“*section 90 direction*”) yw cyfarwyddyd o dan adran 90(2) neu (2ZA) o Ddeddf 1990(2) (caniatâd cynllunio tybiedig ar gyfer datblygu gydag awdurdodiad llywodraeth);

mae i “datblygiad” yr ystyr a roddir i “development” yn adran 55 o Ddeddf 1990(3) (ystyr “development” a “new development”);

ystyr “datblygiad adran 90” (“*section 90 development*”) yw unrhyw ddatblygiad—

- (a) y rhoddwyd cyfarwyddyd adran 90 mewn cysylltiad ag ef wrth roi’r cydsyniad adran 36 perthnasol; neu
- (b) y mae’r ceisydd, wrth wneud cais amrywio, yn gofyn i Weinidogion Cymru roi cyfarwyddyd adran 90 mewn cysylltiad ag ef;

Impact Assessment) (England and Wales) Regulations 2017(1);

“applicant” (“*ceisydd*”) means a person who has the benefit of a section 36 consent and makes a variation application in respect of it;

“development” (“*datblygiad*”) has the meaning given in section 55 of the 1990 Act(2) (meaning of “development” and “new development”);

“generating station” (“*gorsaf gynhyrchu*”) includes a proposed generating station(3);

“proposed development” (“*datblygiad arfaethedig*”) means—

- (a) the generating station, or extension of a generating station, which the applicant would be authorised to construct under a relevant section 36 consent if that consent were varied as requested in a variation application;
- (b) the way in which a generating station so constructed or extended would be authorised to be operated under the relevant section 36 consent as so varied; and
- (c) any section 90 development in respect of which section 36 consent is not required;

“relevant planning authority” (“*awdurdod cynllunio perthnasol*”) means in the case of a variation application, or a request for a section 90 direction which accompanies the variation application, any of the following bodies—

- (a) a local planning authority (within the meaning of Part 1 of the 1990 Act (local planning authorities: general)) in England and Wales;
- (b) the Department of the Environment in Northern Ireland,

which are identified by the applicant under regulation 3(1)(e) or by the Welsh Ministers under regulation 4(7);

“relevant section 36 consent” (“*cydsyniad adran 36 perthnasol*”) means the section 36 consent in respect of which a variation application is made;

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(1) Diwygiwyd adran 36 gan adran 93 o Ddeddf Ynni 2004 (p. 20), 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), adran 78 o Ddeddf Ynni 2016 (p. 20) ac adran 39(7) i (11) o Ddeddf 2017 a pharagraff 47 o Atodlen 6 iddi. Nid yw’r diwygiadau eraill yn berthnasol i’r Rheoliadau hyn.

(2) Amnewidiwyd adran 90(2) a (2ZA) gan adran 21(2) o Ddeddf 2013 ac fe’i diwygiwyd gan adran 39(13) o Ddeddf 2017.

(3) Diwygiwyd adran 55 gan adrannau 13(1) a (2) a 14 o Ddeddf Cynllunio a Digolledu 1991(p. 34), a pharagraff 9 o Atodlen 6, ac Atodlen 19 iddi, adran 49(1) o Ddeddf Cynllunio a Phrynu Gorfodol 2004 (p. 5), a pharagraffau 1 a 2 o Atodlen 6, ac Atodlen 9 iddi, a chan O.S. 1999/293.

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(1) S.I. 2017/580, to which there are amendments not relevant to these Regulations.

(2) Section 55 was amended by sections 13(1) and (2) and 14 of, and paragraph 9 of Schedule 6, and Schedule 19 to, the Planning and Compensation Act 1991 (c. 34), section 49(1) of, and paragraphs 1 and 2 of Schedule 6, and Schedule 9 to, the Planning and Compulsory Purchase Act 2004 (c. 5) and by S.I. 1999/293.

(3) See section 64(1) of the Electricity Act 1989 (“the 1989 Act”) for the interpretation of “generating station”.

ystyr “datblygiad arfaethedig” (“*proposed development*”) yw—

- (a) yr orsaf gynhyrchu, neu'r estyniad i orsaf gynhyrchu, y byddai gan y ceisydd awdurdodiad i'w hadeiladu neu i'w adeiladu o dan gydsyniad adran 36 perthnasol pe bai'r cydsyniad hwnnw wedi ei amrywio fel y gofynnir mewn cais amrywio;
- (b) y ffordd y byddai gorsaf gynhyrchu sydd wedi ei hadeiladu neu ei hestyn felly yn cael ei hawdurdodi i weithredu o dan y cydsyniad adran 36 perthnasol a amrywiwyd felly; ac
- (c) unrhyw ddatblygiad adran 90 nad yw'n ofynnol cael cydsyniad adran 36 mewn cysylltiad ag ef;

ystyr “Deddf 1990” (“*the 1990 Act*”) yw Deddf Cynllunio Gwlad a Thref 1990(1);

ystyr “y Ddeddf” (“*the Act*”) yw Deddf Trydan 1989;

mae “gorsaf gynhyrchu” (“*generating station*”) yn cynnwys gorsaf gynhyrchu arfaethedig(2);

ystyr “y Rheoliadau AEA” (“*the EIA Regulations*”) yw Rheoliadau Gwaith Trydan (Asesiad o'r Effaith Amgylcheddol) (Cymru a Lloegr) 2017(3).

### Cynnwys ceisiadau amrywio

3.—(1) Rhaid i gais amrywio—

- (a) cael ei wneud yn ysgrifenedig;
- (b) disgrifio lleoliad y datblygiad arfaethedig drwy gyfeirio at fap;
- (c) datgan—
  - (i) pam y cynigir y dylid amrywio'r cydsyniad adran 36 perthnasol;
  - (ii) pa ystyriaeth sydd wedi ei rhoi i farn a fynegwyd gan bersonau y mae'r ceisydd wedi ymgynghori â hwy ynghylch yr amrywiad arfaethedig;
- (d) cynnwys—
  - (i) drafft o'r amrywiadau y mae'r ceisydd yn cynnig y dylid eu gwneud i'r cydsyniad adran 36 perthnasol; a

“section 36 consent” (“*cydsyniad adran 36*”) means a consent under section 36 of the Act(1) (consent required for construction etc. of generating stations) including any variations to that consent made under section 36C(4) of the Act which relates to a generating station in Welsh waters (within the meaning of section 36 of the Act) that does not or will not when constructed or extended exceed 350 megawatts;

“section 90 development” (“*datblygiad adran 90*”) means any development in respect of which—

- (a) a section 90 direction was given on granting the relevant section 36 consent; or
- (b) the applicant, on making a variation application, requests the Welsh Ministers to give a section 90 direction;

“section 90 direction” (“*cyfarwyddyd adran 90*”) means a direction under section 90(2) or (2ZA) of the 1990 Act(2) (deemed planning permission for development with government authorisation);

“variation application” (“*cais amrywio*”) means an application to the Welsh Ministers to vary a section 36 consent made under section 36C(1) of the Act.

### Content of variation applications

3.—(1) A variation application must—

- (a) be made in writing;
- (b) describe the location of the proposed development by reference to a map;
- (c) state—
  - (i) why it is proposed that the relevant section 36 consent should be varied;
  - (ii) what account has been taken of views expressed by persons who have been consulted by the applicant about the proposed variation;
- (d) include—
  - (i) a draft of the variations which the applicant proposes should be made to the relevant section 36 consent; and

(1) 1990 p. 8.

(2) *Gweler* adran 64(1) o Ddeddf Trydan 1989 (“Deddf 1989”) am y dehongliad o “generating station”.

(3) O.S. 2017/580, y mae diwygiadau iddo nad ydynt yn berthnasol i'r Rheoliadau hyn.

(1) Section 36 was amended by section 93 of the Energy Act 2004 (c. 20), paragraphs 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), 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 are not relevant to these Regulations.

(2) Section 90(2) and (2ZA) were substituted by section 21(2) of the 2013 Act and were amended by section 39(13) of the 2017 Act.

(ii) copïau o unrhyw fapiau neu blaniau na chyfeirir atynt yn y cydsyniad adran 36 perthnasol ond y mae'r ceisydd yn cynnig y dylai'r cydsyniad adran 36 perthnasol gyfeirio atynt ar ôl ei amrywio; ac

(e) nodi pa un o'r cyrff y cyfeirir atynt yn y diffiniad o "awdurdod cynllunio perthnasol" yn rheoliad 2 sydd, ym marn y ceisydd, yn debygol o fod â buddiant yn y cais amrywio.

(2) Rhaid i gais amrywio gynnwys manylion—

(a) y cydsyniad adran 36 perthnasol, ac, os na chafodd y cydsyniad hwnnw ei roi i'r ceisydd, sut y mae'r ceisydd yn cael budd o'r cydsyniad hwnnw;

(b) unrhyw gyfarwyddyd adran 90 a roddir wrth roi'r cydsyniad adran 36 perthnasol;

(c) unrhyw hawlen, trwydded, cydsyniad neu awdurdodiad arall (ac eithrio'r cydsyniad adran 36 perthnasol) a roddir mewn cysylltiad ag adeiladu neu weithredu'r datblygiad arfaethedig ("awdurdodiad perthnasol"), gan gynnwys unrhyw amrywiad neu amnewidiad o awdurdodiad perthnasol; a

(d) unrhyw gais sydd wedi ei wneud am awdurdodiad perthnasol neu amrywiad i awdurdodiad perthnasol.

(3) Pan fo'r ceisydd yn gofyn i Weinidogion Cymru roi gyfarwyddyd adran 90 wrth amrywio'r cydsyniad adran 36 perthnasol, rhaid i'r cais—

(a) nodi'r datblygiad adran 90 y gofynnir am gyfarwyddyd mewn cysylltiad ag ef a disgrifio ei leoliad drwy gyfeirio at fap;

(b) datgan—

(i) pam y cynigir y dylid gwneud y cyfarwyddyd; a

(ii) pa ystyriaeth sydd wedi ei rhoi i farn a fynegwyd gan bersonau y mae'r ceisydd wedi ymgynghori â hwy ynghylch y cyfarwyddyd arfaethedig; ac

(c) cynnwys—

(i) drafft o'r cyfarwyddyd arfaethedig; a

(ii) copïau o unrhyw fapiau neu blaniau y cynigir y dylai'r cyfarwyddyd adran 90 gyfeirio atynt—

(aa) na chyfeirir atynt yn y cydsyniad adran 36 perthnasol nac unrhyw gyfarwyddyd adran 90 a roddir wrth roi'r cydsyniad adran 36 perthnasol; neu

(bb) nad ydynt wedi eu cynnwys yn y cais yn unol â pharagraff (1)(d)(ii).

(ii) copies of any maps or plans not referred to in the relevant section 36 consent but which the applicant proposes that the relevant section 36 consent should refer to after it is varied; and

(e) identify which of the bodies referred to in the definition of "relevant planning authority" in regulation 2 are, in the applicant's opinion, likely to have an interest in the variation application.

(2) A variation application must include particulars of—

(a) the relevant section 36 consent, and, if that consent was not granted to the applicant, how the applicant has the benefit of that consent;

(b) any section 90 direction given on granting the relevant section 36 consent;

(c) any permit, licence, consent or other authorisation (other than the relevant section 36 consent) given in connection with the construction or operation of the proposed development (a "relevant authorisation"), including any variation or replacement of a relevant authorisation; and

(d) any application that has been made for a relevant authorisation or variation of a relevant authorisation.

(3) Where the applicant requests the Welsh Ministers to give a section 90 direction on varying the relevant section 36 consent, the application must—

(a) identify the section 90 development in respect of which that request is made and describe its location by reference to a map;

(b) state—

(i) why it is proposed that the direction should be made; and

(ii) what account has been taken of views expressed by persons who have been consulted by the applicant about the proposed direction; and

(c) include—

(i) a draft of the proposed direction; and

(ii) copies of any maps or plans to which it is proposed that the section 90 direction should refer which are not—

(aa) referred to in the relevant section 36 consent or any section 90 direction given on granting the relevant section 36 consent; or

(bb) included in the application in accordance with paragraph (1)(d)(ii).



#### Asesu addasrwydd ar gyfer cyhoeddi

4.—(1) Pan fo Gweinidogion Cymru yn cael cais amrywio, rhaid iddynt—

- (a) ystyried a yw'n addas ar gyfer ei gyhoeddi yn unol â rheoliad 5 ai peidio; a
- (b) rhoi hysbysiad i'r ceisydd o dan baragraff (2) neu (6) o fewn tair wythnos o'i gael.

(2) Os na fydd Gweinidogion Cymru yn ystyried bod y cais yn addas i'w gyhoeddi, rhaid iddynt roi hysbysiad i'r ceisydd—

- (a) am eu penderfyniad a'r rhesymau am y penderfyniad hwnnw; a
- (b) y caiff wneud sylwadau i Weinidogion Cymru gyda golwg ar ddarbwylllo Gweinidogion Cymru bod y cais yn addas i'w gyhoeddi.

(3) Pan fo Gweinidogion Cymru yn rhoi hysbysiad o dan baragraff (2), rhaid iddynt—

- (a) pennu yn ysgrifenedig ddyddiad erbyn pryd y mae unrhyw sylwadau o dan baragraff (2)(b) i'w gwneud; a
- (b) os bydd y ceisydd yn methu â gwneud sylwadau erbyn y dyddiad a bennir felly, rhoi hysbysiad gwrthod i'r ceisydd.

(4) Mae paragraff (5) yn gymwys pan fo'r ceisydd yn gwneud sylwadau i Weinidogion Cymru yn ychwanegol at hysbysiad a roddir iddo o dan baragraff (2)(b).

(5) Os yw Gweinidogion Cymru, ar ôl ystyried sylwadau'r ceisydd—

- (a) yn parhau i ystyried nad yw'r cais yn addas i'w gyhoeddi, rhaid iddynt roi hysbysiad pellach o dan baragraff (2) neu hysbysiad gwrthod; neu
- (b) yn ystyried bod y cais yn addas i'w gyhoeddi, rhaid iddynt roi hysbysiad o dan baragraff (6).

(6) Os yw Gweinidogion Cymru yn ystyried bod y cais yn addas i'w gyhoeddi, rhaid iddynt roi hysbysiad i'r ceisydd am eu penderfyniad.

(7) Pan fo—

- (a) paragraff (6) yn gymwys; a
- (b) cyrff y cyfeirir atynt yn y diffiniad o "awdurdod cynllunio perthnasol" yn rheoliad 2—
  - (i) y mae Gweinidogion Cymru yn ystyried eu bod yn debygol o fod â buddiant yn y cais; a
  - (ii) nad ydynt wedi eu nodi gan y ceisydd o dan reoliad 3(1)(e),

#### Assessment of suitability for publication

4.—(1) Where the Welsh Ministers receive a variation application, they must—

- (a) consider whether or not it is suitable for publication in accordance with regulation 5; and
- (b) give the applicant a notice under paragraph (2) or (6) within three weeks of receipt.

(2) If the Welsh Ministers do not consider that the application is suitable for publication, they must give notice to the applicant—

- (a) of their decision and the reasons for that decision; and
- (b) that it may make representations to the Welsh Ministers with a view to persuading the Welsh Ministers that the application is suitable for publication.

(3) Where the Welsh Ministers give notice under paragraph (2), they must—

- (a) specify in writing a date by which any representations under paragraph (2)(b) are to be made; and
- (b) if the applicant fails to make representations by the date so specified, give the applicant a refusal notice.

(4) Paragraph (5) applies where the applicant makes representations to the Welsh Ministers further to a notice given to it under paragraph (2)(b).

(5) If, having considered the applicant's representations, the Welsh Ministers—

- (a) still consider that the application is not suitable for publication, they must give a further notice under paragraph (2) or a refusal notice; or
- (b) consider that the application is suitable for publication, they must give a notice under paragraph (6).

(6) If the Welsh Ministers consider that the application is suitable for publication, they must give the applicant notice of their decision.

(7) Where—

- (a) paragraff (6) applies; and
- (b) there are bodies referred to in the definition of "relevant planning authority" in regulation 2—
  - (i) that the Welsh Ministers consider are likely to have an interest in the application; and
  - (ii) that have not been identified by the applicant under regulation 3(1)(e),

rhaid i Weinidogion Cymru nodi'r cyrff hynny yn yr hysbysiad a roddir o dan baragraff (6).

(8) At ddibenion y rheoliad hwn, mae cais amrywio yn addas i'w gyhoeddi yn unol â rheoliad 5—

- (a) mewn achos pan fo'n ofynnol llunio adroddiad AEA mewn cysylltiad â'r cais amrywio o dan y Rheoliadau AEA (am fod y cais ar gyfer datblygiad AEA o fewn ystyr y Rheoliadau hynny), os oes adroddiad AEA wedi ei ddarparu i [Weinidogion Cymru]; a
- (b) os ymddengys i Weinidogion Cymru—
  - (i) bod y ceisydd yn dymuno adeiladu, gweithredu neu estyn gorsaf gynhyrchu mewn modd nad yw'r cydsyniad adran 36 perthnasol yn ei awdurdodi;
  - (ii) nad yw'r datblygiad arfaethedig yn wahanol i'r orsaf gynhyrchu y mae'r cydsyniad adran 36 perthnasol yn cyfeirio ato i'r graddau (o ran ei adeiladu, ei estyn, ei weithredu neu ei effaith amgylcheddol debygol) y mae awdurdodiad yn ofynnol ar ei gyfer gan—
    - (aa) gorchymyn sy'n rhoi cydsyniad datblygu o fewn ystyr adran 31 o Ddeddf Cynllunio 2008(1) (pa bryd y mae cydsyniad datblygu yn ofynnol); neu
    - (bb) cydsyniad adran 36 newydd (yn hytrach nag amrywiad i'r cydsyniad adran 36 perthnasol); a
  - (iii) bod digon o wybodaeth yn y cais i alluogi Gweinidogion Cymru i wneud penderfyniad am y cais.

(9) Yn y rheoliad hwn—

- (a) mae i "adroddiad AEA" yr ystyr a roddir i "EIA report" yn y Rheoliadau AEA;
- (b) ystyr "hysbysiad gwrthod" yw hysbysiad bod Gweinidogion Cymru wedi penderfynu o dan adran 36C(4) o'r Ddeddf na fyddai'n briodol gwneud unrhyw amrywiad i'r cydsyniad adran 36 perthnasol.

## Cyhoeddi

5.—(1) Pan fo ceisydd wedi cael hysbysiad o dan rheoliad 4(6), rhaid cyhoeddi'r cais amrywio, a rhaid hysbysebu ei fod yn cael ei gyhoeddi, yn unol â'r rheoliad hwn.

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(1) 2008 p. 29.

the Welsh Ministers must identify those bodies in the notice given under paragraph (6).

(8) For the purposes of this regulation, a variation application is suitable for publication in accordance with regulation 5 if—

- (a) in a case where an EIA report is required to be prepared in connection with the variation application under the EIA Regulations (because the application is for EIA development within the meaning of those Regulations), an EIA report has been provided to the Welsh Ministers; and
- (b) it appears to the Welsh Ministers that—
  - (i) the applicant wishes to construct, operate or extend a generating station in a way which the relevant section 36 consent does not authorise it to do;
  - (ii) the proposed development does not differ from the generating station to which the relevant section 36 consent refers to such an extent (in its construction, extension, operation or likely environmental effects) that it requires authorisation by—
    - (aa) an order granting development consent within the meaning of section 31 of the Planning Act 2008(1) (when development consent is required); or
    - (bb) a new section 36 consent (rather than a variation to the relevant section 36 consent); and
  - (iii) there is sufficient information in the application to enable the Welsh Ministers to determine the application.

(9) In this regulation—

- (a) "EIA report" has the meaning given in the EIA Regulations;
- (b) a "refusal notice" is a notice that the Welsh Ministers have decided under section 36C(4) of the Act that it would not be appropriate to make any variation to the relevant section 36 consent.

## Publication

5.—(1) Where an applicant has received a notice under regulation 4(6), the variation application must be published, and its publication advertised, in accordance with this regulation.

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(1) 2008 c. 29.



(2) Rhaid i'r ceisydd neu, pan fo paragraff (3) yn gymwys, Weinidogion Cymru gyhoeddi ar wefan ( y "gwefan ceisiadau")—

- (a) crynodeb o'r cais amrywio;
- (b) y cais;
- (c) dolen at y cydsyniad adran 36 perthnasol, unrhyw gyfarwyddyd adran 90 a roddir wrth roi'r cydsyniad adran 36 perthnasol ac unrhyw ddatganiad (ar ffurf llythyr penderfyniad, hysbysiad am benderfyniad neu fel arall) a roddir gan yr awdurdod priodol<sup>(1)</sup> o dan reoliad 10(3) o Reoliadau Gwaith Trydan (Asesiad o'r Effaith Amgylcheddol) (Cymru a Lloegr) 2000<sup>(2)</sup> neu reoliad 33 o'r Rheoliadau AEA wrth roi'r cydsyniad adran 36 perthnasol.

(3) Mae'r paragraff hwn yn gymwys pan fo Gweinidogion Cymru yn hysbysu'r datblygwr yn ysgrifenedig y bydd Gweinidogion Cymru yn cydymffurfio â'r rhwymedigaethau ym mharagraff (2).

(4) Rhaid i'r ceisydd gyflwyno copi o'r cais i'r awdurdod cynllunio perthnasol (os oes un).

(5) Rhaid i'r ceisydd gyhoeddi hysbysiad am y cais amrywio—

- (a) dwy wythnos yn olynol mewn un neu ragor o bapurau newydd lleol sy'n debygol o ddod i sylw'r rheini y mae'r datblygiad arfaethedig yn debygol o effeithio arnynt;
- (b) yn y London Gazette;
- (c) yn Lloyd's List ac mewn un neu ragor o bapurau newydd cenedlaethol; a
- (d) os oes un neu ragor o gyfnodolion masnach pysgota priodol yn cylchredeg a gyhoeddir fesul ysbaid nad yw'n fwy nag un mis, mewn o leiaf un cyfnodolyn masnach o'r fath,

a chyflwyno copi o'r hysbysiad i'r awdurdod cynllunio perthnasol (os oes un).

(6) O ran yr hysbysiad sy'n ofynnol gan baragraff (5)—

- (a) ni chaniateir ei gyhoeddi cyn bod y ceisydd wedi cydymffurfio â pharagraffau (2) a (4) neu, pan fo paragraff (3) yn gymwys, bod Gweinidogion Cymru wedi cydymffurfio â pharagraff (2) a bod y ceisydd wedi cydymffurfio â pharagraff (4);
- (b) rhaid iddo ddatgan—

(2) The applicant or, where paragraph (3) applies, the Welsh Ministers must publish on a website (the "application website")—

- (a) a summary of the variation application;
- (b) the application;
- (c) a link to the relevant section 36 consent, any section 90 direction given on granting the relevant section 36 consent and any statement (in the form of a decision letter, decision notice or otherwise) given by the appropriate authority<sup>(1)</sup> under regulation 10(3) of the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000<sup>(2)</sup> or regulation 33 of the EIA Regulations on granting the relevant section 36 consent.

(3) This paragraph applies where the Welsh Ministers notify the developer in writing that the Welsh Ministers will comply with the obligations in paragraph (2).

(4) The applicant must serve a copy of the application on the relevant planning authority (if any).

(5) The applicant must publish notice of the variation application—

- (a) in two successive weeks in one or more local newspapers which are likely to come to the attention of those likely to be affected by the proposed development;
- (b) in the London Gazette;
- (c) in Lloyd's List and in one or more national newspapers; and
- (d) if there are in circulation one or more appropriate fishing trade journals which are published at intervals not exceeding one month, in at least one such trade journal.

and serve a copy of the notice on the relevant planning authority (if any).

(6) The notice required by paragraph (5) must—

- (a) not be published before the applicant has complied with paragraphs (2) and (4) or, where paragraph (3) applies, the Welsh Ministers have complied with paragraph (2) and the applicant has complied with paragraph (4);
- (b) state—

<sup>(1)</sup> *Gweler* adran 36C(6) o Ddeddf 1989 i gael y diffiniad o "appropriate authority".

<sup>(2)</sup> O.S. 2000/1927 a ddiwygiwyd gan O.S. 2007/1977 ac a ddirymwyd gan O.S. 2017/580 yn ddarostyngedig i'r ddarpariaeth drosiannol a bennir yn rheoliad 42 o'r offeryn hwnnw.

<sup>(1)</sup> See section 36C(6) of the 1989 Act for the meaning of "appropriate authority".

<sup>(2)</sup> S.I. 2000/1927 which was amended by S.I. 2007/1977 and revoked by S.I. 2017/580 subject to the transitional provision as specified in regulation 42 of that instrument.

- (i) bod cais amrywio wedi ei wneud a bod y ceisydd wedi cael hysbysiad o dan reoliad 4(6);
  - (ii) cyfeiriad y wefan ceisiadau, a bod gwybodaeth ychwanegol ynghylch y cais i'w gweld ar y wefan ceisiadau;
  - (iii) y dyddiad, nid llai na phedair wythnos ar ôl y dyddiad y mae'r hysbysiad olaf i'w gyhoeddi, erbyn pryd y mae rhaid i unrhyw berson ac eithrio awdurdod cynllunio perthnasol anfon gwrthwynebiadau i'r datblygiad arfaethedig, neu sylwadau eraill ynghylch y cais, i Weinidogion Cymru; a
  - (iv) y cyfeiriad y mae unrhyw sylwadau o'r fath i'w hanfon iddo; ac
- (c) rhaid iddo nodi—
- (i) y ceisydd;
  - (ii) y cydsyniad adran 36 perthnasol;
  - (iii) yr orsaf gynhyrchu y mae'n berthnasol iddo; a
  - (iv) lle sy'n rhesymol hygyrch i'r rheini y mae'r datblygiad arfaethedig yn debygol o effeithio arnynt ac y gellir gweld copïau o'r cais amrywio.

- (i) that a variation application has been made and that the applicant has received a notice under regulation 4(6);
  - (ii) the address of the application website, and that further information about the application is to be found on the application website;
  - (iii) the date, not less than four weeks after the date on which the last notice is to be published, by which any person other than a relevant planning authority must send objections to the proposed development, or other representations about the application, to the Welsh Ministers; and
  - (iv) the address to which any such representations are to be sent; and
- (c) identify—
- (i) the applicant;
  - (ii) the relevant section 36 consent;
  - (iii) the generating station to which it relates; and
  - (iv) a place which is reasonably accessible to those likely to be affected by the proposed development where copies of the variation application may be inspected.

### Ymchwiliadau cyhoeddus i geisiadau amrywio

6.—(1) Caiff Gweinidogion Cymru beri i ymchwiliad cyhoeddus gael ei gynnal ynghylch cais amrywio os ydynt yn ystyried ei bod yn briodol gwneud hynny ar ôl ystyried—

- (a) unrhyw sylwadau a wneir ynghylch cais amrywio i Weinidogion Cymru—
  - (i) y mae awdurdod cynllunio perthnasol yn eu gwneud o fewn dau fis i'r dyddiad y cyflwynwyd copi o'r cais iddo o dan reoliad 5(4); a
  - (ii) y mae unrhyw berson arall yn eu gwneud ar y dyddiad a bennir yn unol â rheoliad 5(6)(b)(iii), neu cyn y dyddiad hwnnw, pan na fo'r sylwadau hynny'n cael eu tynnu'n ôl; a
- (b) pob ystyriaeth berthnasol arall.

(2) Os bydd Gweinidogion Cymru yn peri i ymchwiliad cyhoeddus gael ei gynnal i gais amrywio cânt wneud hynny yn ychwanegol at unrhyw wrandawriad neu gyfle arall i wneud sylwadau ynghylch y cais neu yn lle unrhyw wrandawriad neu gyfle arall o'r fath.

### Public inquiries into variation applications

6.—(1) The Welsh Ministers may cause a public inquiry to be held into a variation application if they consider it appropriate to do so having considered—

- (a) any representations made about a variation application to the Welsh Ministers—
  - (i) which a relevant planning authority makes within two months of the date on which a copy of the application was served on it under regulation 5(4); and
  - (ii) which any other person makes on or before the date specified in accordance with regulation 5(6)(b)(iii), where those representations are not withdrawn; and
- (b) all other material considerations.

(2) If the Welsh Ministers cause a public inquiry to be held into a variation application they may do so in addition to or instead of any other hearing or opportunity to make representations about the application.

## Tynnu ceisiadau amrywio yn ôl

7.—(1) Caiff ceisydd dynnu cais amrywio yn ôl ar unrhyw adeg drwy roi hysbysiad ysgrifenedig i Weinidogion Cymru.

(2) Os caiff cais amrywio ei dynnu'n ôl ar ôl iddo gael ei gyhoeddi yn unol â rheoliad 5, rhaid i Weinidogion Cymru hysbysu'r awdurdod cynllunio perthnasol a'r cyrff ymgynghori o fewn ystyr y Rheoliadau AEA ei fod wedi ei dynnu'n ôl.

## Caniatáu amser ychwanegol

8. Caiff Gweinidogion Cymru mewn unrhyw achos penodol ganiatáu amser ychwanegol ar gyfer cymryd unrhyw gam sy'n ofynnol, neu y galluogir ei gymryd, yn rhinwedd y Rheoliadau hyn, ac mae cyfeiriadau yn y Rheoliadau hyn at ddiwrnod erbyn pryd y mae'n ofynnol cymryd unrhyw gam, neu y galluogir cymryd unrhyw gam, neu at gyfnod y mae'n ofynnol gwneud hynny o'i fewn, i'w dehongli yn unol â hynny.

## Dirymu

9. Mae Rheoliadau Gorsafoedd Cynhyrchu Trydan (Amrywio Cydsyniadau) (Cymru a Lloegr) 2013(1) wedi eu dirymu i'r graddau y maent yn gymwys i gais amrywio.

## Withdrawal of variation applications

7.—(1) An applicant may withdraw a variation application at any time by notice in writing to the Welsh Ministers.

(2) If a variation application is withdrawn after it has been published in accordance with regulation 5, the Welsh Ministers must notify the relevant planning authority and the consultation bodies within the meaning of the EIA Regulations that it has been withdrawn.

## Allowing further time

8. The Welsh Ministers may in any particular case allow further time for the taking of any step which is required or enabled to be taken by virtue of these Regulations, and references in these Regulations to a day by which, or a period within which, any step is required or enabled to be taken are to be construed accordingly.

## Revocation

9. The Electricity Generating Stations (Variation of Consents) (England and Wales) Regulations 2013(1) are revoked so far as they apply to a variation application.

*Julie James*

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

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

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(1) O.S. 2013/1570 a ddiwygiwyd gan O.S. 2017/580.

(1) S.I. 2013/1570 which was amended by S.I. 2017/580.

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