



CYNULLIAD CENEDLAETHOL CYMRU

NATIONAL ASSEMBLY FOR WALES

OFFERYNNAU STATUDOL

STATUTORY INSTRUMENTS

2001 Rhif 2197 (Cy.157)

2001 No. 2197 (W.157)

**DIOGELU'R AMGYLCHEDD,
CYMRU**

**ENVIRONMENTAL
PROTECTION, WALES**

Rheoliadau Tir Halogedig (Cymru)
2001

The Contaminated Land (Wales)
Regulations 2001

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note does not form part of the Regulations.)

Mae'r Rheoliadau hyn, sy'n gymwys i Gymru yn unig, yn darparu ar gyfer agweddau penodol ar gynllun newydd o dan Ran IIA o Ddeddf Diogelu'r Amgylchedd 1990 ("Deddf 1990") ar gyfer adfer tir halogedig.

These Regulations, which apply to Wales only, make provision for certain aspects of a new scheme under Part IIA of the Environmental Protection Act 1990 ("the 1990 Act") for the remediation of contaminated land.

Mae Rheoliadau 2 a 3, ac Atodlen 1, yn nodi'r safleoedd hynny (a elwir "safleoedd arbennig") y bydd Asiantaeth yr Amgylchedd yn awdurdod sy'n gyfrifol am orfodi'r cynllun ar eu cyfer. Yr awdurdodau lleol sy'n gyfrifol am orfodi'r cynllun yn achos unrhyw fath arall o safle.

Regulations 2 and 3, and Schedule 1, identify those sites (known as "special sites") for which the Environment Agency is to be the authority responsible for enforcing the scheme. Local authorities are responsible for enforcing the scheme in the case of any other type of site.

Mae Rheoliadau 4 a 5 yn darparu ar gyfer cynnwys "hysbysiadau adfer" a chyflwyno copïau ohonynt, hynny yw, hysbysiadau a gyflwynir gan awdurdod lleol neu Asiantaeth yr Amgylchedd gan bennu'r hyn sydd i'w wneud o ran gwaith adfer a'r amser ar gyfer gweithredu.

Regulations 4 and 5 provide for the content and service of copies of "remediation notices", that is, notices served by a local authority or the Environment Agency specifying what is to be done by way of remediation and the time for taking any action.

Mae Rheoliad 6, ac Atodlen 2, yn darparu ar gyfer yr iawndal sydd i'w dalu yn unol ag adran 78G(5) o Ddeddf 1990 i berson sy'n rhoi, neu'n ymuno i roi, yr hawliau mynediad etc. y mae eu hangen i alluogi person i gydymffurfio â hysbysiad adfer.

Regulation 6, and Schedule 2, make provision for the compensation which is to be paid in accordance with section 78G(5) of the 1990 Act to a person who grants, or joins in granting, rights of entry etc. required to enable a person to comply with a remediation notice.

Mae Rheoliadau 7 i 14 yn darparu ynglŷn ag apelau yn erbyn hysbysiadau adfer, gan gynnwys seiliau apelio a'r weithdrefn sydd i'w dilyn.

Regulations 7 to 14 make provision with respect to appeals against remediation notices, including the grounds of appeal and the procedure to be followed.

Mae Rheoliad 15, ac Atodlen 3, yn rhagnodi manylion y materion y mae'n ofynnol o dan adran 78R o Ddeddf 1990 eu rhoi ar gofrestr a gedwir gan yr awdurdodau lleol neu, yn achos safleoedd arbennig, gan Asiantaeth yr Amgylchedd.

Regulation 15, and Schedule 3, prescribe the particulars of matters which are required under section 78R of the 1990 Act to be placed on a register maintained by local authorities or, in the case of special sites, by the Environment Agency.

Paratowyd asesiad rheoliadol o effaith y Rheoliadau hyn a gellir cael copi oddi wrth Is-adran yr Amgylchedd, Cynulliad Cenedlaethol Cymru, Parc Cathays, Caerdydd.

A regulatory impact assessment of the effect of these Regulations has been prepared and a copy may be obtained from Environment Division, National Assembly for Wales, Cathays Park, Cardiff.

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2001****The Contaminated Land (Wales)
Regulations 2001**

Wedi'u gwneud 12 Mehefin 2001
Yn dod i rym 1 Gorffennaf 2001

Made 12th June 2001
Coming into force 1st July 2001

TREFN Y RHEOLIADAU**ARRANGEMENT OF REGULATIONS**

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2. Tir y mae'n ofynnol ei ddynodi'n safle arbennig
3. Llygru dyfroedd a reolir
4. Cynnwys hysbysiadau adfer
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ATODLENNI**SCHEDULES**

1. Safleoedd arbennig
2. Iawndal am hawliau mynediad etc
3. Cofrestrau

1. Special sites
2. Compensation for rights of entry etc
3. Registers

Mae Cynulliad Cenedlaethol Cymru yn gwneud y Rheoliadau canlynol, drwy arfer y pwerau a roddwyd iddo gan adrannau 78C(8) i (10), 78E(6), 78G(5) a (6), 78L(4) a (5) a 78R(1), (2) ac (8) o Ddeddf Diogelu'r Amgylchedd 1990(a) a phob pŵer arall sy'n galluogi'r Cynulliad yn y cyswllt hwnnw:

Enwi, cychwyn, cymhwyso a dehongli

1.-(1) Enw'r Rheoliadau hyn yw Rheoliadau Tir Halogedig (Cymru) 2001 a deuant i rym ar 1 Gorffennaf 2001.

(2) Mae'r Rheoliadau hyn yn gymwys i Gymru yn unig.

(3) Yn y Rheoliadau hyn, oni nodir fel arall, mae unrhyw gyfeiriad at adran â rhif yn gyfeiriad at yr adran o Ddeddf Diogelu'r Amgylchedd 1990 sy'n dwyn y rhif hwnnw.

Tir y mae'n ofynnol ei ddynodi'n safle arbennig

2.-(1) Rhagnodir tir halogedig o'r disgrifiadau canlynol at ddibenion adran 78C(8) yn dir y mae'n ofynnol ei ddynodi'n safle arbennig -

- (a) tir y mae rheoliad 3 yn gymwys iddo;
- (b) tir sy'n dir halogedig oherwydd tarau asid gwastraff yn y tir, arno neu odano;
- (c) tir y cynhaliwyd unrhyw un o'r gweithgareddau canlynol arno ar unrhyw adeg -
 - (i) puro (gan gynnwys coethi) petroliwm crai neu olew a echdynnwyd o betroliwm, siâl neu unrhyw sylwedd bitwminaidd arall ac eithrio glo; neu
 - (ii) gweithgynhyrchu neu brosesu ffrwydrion;
- (ch) tir y mae proses ragnodedig a ddynodwyd i'w rheoli'n ganolog wedi'i chyflawni arno neu wrthi'n cael ei chyflawni arno o dan awdurdodiad os nad yw'r broses yn cynnwys dim ond pethau sy'n cael eu gwneud ac y mae'n ofynnol eu gwneud o ran gwaith adfer;
- (d) tir o fewn safle niwclear;
- (dd) tir a berchenogir neu a feddiennir gan neu ar ran -
 - (i) yr Ysgrifennydd Gwladol dros Amddiffyn;
 - (ii) y Cyngor Amddiffyn;
 - (iii) pencadlys rhyngwladol neu gorff amddiffyn; neu

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on it by sections 78C(8) to (10), 78E(6), 78G(5) and (6), 78L(4) and (5) and 78R(1), (2) and (8) of the Environmental Protection Act 1990(a), and of all other powers enabling it in that behalf:

Citation, commencement, application and interpretation

1.-(1) These Regulations may be cited as the Contaminated Land (Wales) Regulations 2001 and shall come into force on 1st July 2001.

(2) These Regulations apply to Wales only.

(3) In these Regulations, unless otherwise indicated, any reference to a numbered section is to the section of the Environmental Protection Act 1990 which bears that number.

Land required to be designated as a special site

2.-(1) Contaminated land of the following descriptions is prescribed for the purposes of section 78C(8) as land required to be designated as a special site -

- (a) land to which regulation 3 applies;
- (b) land which is contaminated land by reason of waste acid tars in, on or under the land;
- (c) land on which any of the following activities have been carried on at any time -
 - (i) the purification (including refining) of crude petroleum or of oil extracted from petroleum, shale or any other bituminous substance except coal; or
 - (ii) the manufacture or processing of explosives;
- (d) land on which a prescribed process designated for central control has been or is being carried on under an authorisation where the process does not comprise solely things being done which are required by way of remediation;
- (e) land within a nuclear site;
- (f) land owned or occupied by or on behalf of -
 - (i) the Secretary of State for Defence;
 - (ii) the Defence Council;
 - (iii) an international headquarters or defence organisation; or

(a) 1990 p.43. Mewnosodwyd adrannau 78A i 78YC gan adran 57 o Ddeddf yr Amgylchedd 1995 (p.25). Gweler y diffiniad o "prescribed" yn adran 78A(9). Trosglwyddwyd swyddogaethau'r Ysgrifennydd Gwladol o dan y darpariaethau hyn i Gynulliad Cenedlaethol Cymru o dan erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672).

(a) 1990 c.43. Sections 78A to 78YC were inserted by section 57 of the Environment Act 1995 (c.25). See the definition of "prescribed" in section 78A(9). The functions of the Secretary of State under these provisions were transferred to the National Assembly for Wales under article 2 of and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

(iv) awdurdod lluoedd arfog llu sydd ar ymweliad;

sef tir sy'n cael ei defnyddio at ddibenion llynges, byddin neu awyrlu;

(e) tir y gwnaed gwaith arno i weithgynhyrchu, cynhyrchu neu waredu -

(i) arfau cemegol;

(ii) unrhyw gyfrwng neu docsin biolegol sy'n dod o fewn adran 1(1)(a) o Ddeddf Arfau Biolegol 1974 (cyfyngiad ar ddatblygu cyfryngau a thocsinau biolegol)(a); neu

(iii) unrhyw arf, offer neu fodd danfon sy'n dod o fewn adran 1(1)(b) o'r Ddeddf honno (cyfyngiad ar ddatblygu arfau biolegol),

ar unrhyw adeg;

(f) tir sy'n cynnwys tir ac adeiladau a ddynodir neu a ddynodwyd gan yr Ysgrifennydd Gwladol drwy orchymyn a wnaed o dan adran 1(1) o Ddeddf y Sefydliad Arfau Niwclear 1991 (trefniadau ar gyfer datblygu etc dyfeisiau niwclear)(b); ac

(i) tir -

(i) sy'n gyffiniol neu'n gyfagos â thir o ddisgrifiad a bennir yn is-baragraffau (b) i (f) uchod; a

(ii) sy'n dir halogedig yn rhinwedd sylweddau y mae'n ymddangos eu bod wedi dianc o dir o'r disgrifiad hwnnw.

(2) At ddibenion paragraff (1)(b) uchod, mae "tarau asid gwastraff" yn darau -

(a) sy'n cynnwys asid sylffwrig;

(b) a gynhyrchwyd o ganlyniad i goethi bensol, ireidiau a ddefnyddiwyd neu betroliwm; ac

(c) sydd neu a oedd yn cael eu storio ar dir a ddefnyddiwyd fel basn cadw ar gyfer gwaredu tarau o'r fath.

(3) Ym mharagraff (1)(ch) uchod, mae i "awdurdodiad" a "proses ragnodedig" yr un ystyr ag "authorisation" a "prescribed process" yn Rhan I o Ddeddf Diogelu'r Amgylchedd 1990 (rheoli integredig ar lygredd a rheoli llygredd aer gan awdurdodau lleol)(c) ac mae'r cyfeiriad at ddynodi i'w rheoli'n ganolog yn gyfeiriad at ddynodi o dan adran 2(4) (sy'n darparu i brosesau gael eu dynodi i'w rheoli yn ganolog neu yn lleol).

(iv) the service authority of a visiting force,

being land used for naval, military or air force;

(g) land on which the manufacture, production or disposal of -

(i) chemical weapons;

(ii) any biological agent or toxin which falls within section 1(1)(a) of the Biological Weapons Act 1974 (restriction on development of biological agents and toxins)(a); or

(iii) any weapon, equipment or means of delivery which falls within section 1(1)(b) of that Act (restriction on development of biological weapons),

has been carried on at any time;

(h) land comprising premises which are or were designated by the Secretary of State by an order made under section 1(1) of the Atomic Weapons Establishment Act 1991 (arrangements for development etc of nuclear devices)(b); and

(i) land which -

(i) is adjoining or adjacent to land of a description specified in sub-paragraphs (b) to (h) above; and

(ii) is contaminated land by virtue of substances which appear to have escaped from land of such a description.

(2) For the purposes of paragraph (1)(b) above, "waste acid tars" are tars which -

(a) contain sulphuric acid;

(b) were produced as a result of the refining of benzole, used lubricants or petroleum; and

(c) are or were stored on land used as a retention basin for the disposal of such tars.

(3) In paragraph (1)(d) above, "authorisation" and "prescribed process" have the same meaning as in Part I of the Environmental Protection Act 1990 (integrated pollution control and air pollution control by local authorities)(c) and the reference to designation for central control is a reference to designation under section 2(4) (which provides for processes to be designated for central or local control).

(a) 1974 p.6.

(b) 1991 p.46.

(c) Gweler adran 1.

(a) 1974 c.6.

(b) 1991 c.46.

(c) See section 1.

(4) Ym mharagraff (1)(d) uchod, ystyr "safle niwclear" yw -

- (a) unrhyw safle y mae trwydded safle niwclear mewn grym am y tro ar ei gyfer, neu ar gyfer rhan ohono; neu
- (b) unrhyw safle nad yw cyfnod cyfrifoldeb y trwyddedai wedi dod i ben, ar ôl diddymu neu ildio trwydded safle niwclear ar ei gyfer neu ar gyfer rhan ohono;

ac mae i "trwydded safle niwclear", "trwyddedai" a "cyfnod cyfrifoldeb" yr ystyr a roddir i "nuclear site licence", "licensee" a "period of responsibility" gan Ddeddf Sefydliadau Niwclear 1965(a).

(5) At ddibenion paragraff (1)(dd) uchod, dim ond os yw'r tir yn rhan o ganolfan a feddiennir at ddibenion llynges, byddin neu awyrlu y mae'n rhaid i dir sy'n cael ei ddefnyddio at ddibenion preswyl neu gan Sefydliadau'r Llynges, y Fyddin a'r Awyrlu gael ei drin fel tir sy'n cael ei ddefnyddio at ddibenion llynges, byddin neu awyrlu.

(6) Ym mharagraff (1)(dd) uchod -

ystyr "pencadlys rhyngwladol" a "corff amddiffyn" yw, yn eu tro, unrhyw bencadlys rhyngwladol neu gorff amddiffyn a ddynodwyd at ddibenion Deddf Pencadlysoedd Rhyngwladol a Chyrrff Amddiffyn 1964(b);

mae i "awdurdod lluoedd arfog" a "llu ar ymweliad" yr un ystyr â "service authority" a "visiting force" yn Rhan I o Ddeddf Lluoedd ar Ymweliad 1952(c).

(7) Ym mharagraff (1)(e) uchod, mae i "arf cemegol" yr un ystyr â "chemical weapon" yn is-adran (1) o adran 1 o Ddeddf Arfau Cemegol 1996(ch) gan anwybyddu is-adran (2) o'r adran honno.

Llygru dyfroedd a reolir

3. At ddibenion rheoliad 2(1)(a), mae'r rheoliad hwn yn gymwys i dir -

(a) pan fydd y tir(d) yn effeithio ar ddyfroedd a reolir sy'n cael eu defnyddio, neu y bwriedir eu defnyddio, i gyflenwi dŵr i bobl ei yfed a phan fydd angen defnyddio proses, o'r herwydd, i'w trin neu newid y broses honno cyn i'r dyfroedd gael eu defnyddio, er mwyn iddynt gael eu hystyried yn ddyfroedd iachusol o fewn ystyr Rhan III o Ddeddf y Diwydiant Dŵr 1991 (y cyflenwad dŵr)(dd);

(b) pan fydd y tir yn effeithio ar ddyfroedd a reolir ac, o'r herwydd, nad yw'r dyfroedd hynny yn bodloni neu nad ydynt yn debygol o fodloni'r

(4) In paragraph (1)(e) above, "nuclear site" means -

- (a) any site in respect of which, or part of which, a nuclear site licence is for the time being in force; or
- (b) any site in respect of which, or part of which, after the revocation or surrender of a nuclear site licence, the period of responsibility of the licensee has not come to an end;

and "nuclear site licence", "licensee" and "period of responsibility" have the meaning given by the Nuclear Installations Act 1965(a).

(5) For the purposes of paragraph (1)(f) above, land used for residential purposes or by the Navy, Army and Air Force Institutes shall be treated as land used for naval, military or air force purposes only if the land forms part of a base occupied for naval, military or air force purposes.

(6) In paragraph (1)(f) above -

"international headquarters" and "defence organisation" mean, respectively, any international headquarters or defence organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964(b);

"service authority" and "visiting force" have the same meaning as in Part I of the Visiting Forces Act 1952(c).

(7) In paragraph (1)(g) above, "chemical weapon" has the same meaning as in subsection (1) of section 1 of the Chemical Weapons Act 1996(d) disregarding subsection (2) of that section.

Pollution of controlled waters

3. For the purposes of regulation 2(1)(a), this regulation applies to land where -

- (a) controlled waters which are, or are intended to be, used for the supply of drinking water for human consumption are being affected by the land(e) and, as a result, require a treatment process or a change in such a process to be applied to those waters before use, so as to be regarded as wholesome within the meaning of Part III of the Water Industry Act 1991 (water supply)(f);
- (b) controlled waters are being affected by the land and, as a result, those waters do not meet or are not likely to meet the criterion for

(a) 1965 p.57.

(b) 1964 p.5.

(c) 1952 p.67.

(ch) 1996 p.6.

(d) Gweler adran 78A(8) ar gyfer ystyr "affected by".

(dd) 1991 p.56.

(a) 1965 c.57.

(b) 1964 c.5.

(c) 1952 c.67.

(d) 1996 c.6.

(e) See section 78A(8) for the meaning of "affected by".

6 (f) 1991 c.56

maen prawf ar gyfer y dosbarthiad sy'n gymwys i'r disgrifiad perthnasol o ddyfroedd a bennir mewn rheoliadau a wneir o dan adran 82 o Ddeddf Adnoddau Dŵr 1991 (dosbarthu ansawdd dyfroedd)(a); neu

- (c) pan fydd y tir yn effeithio ar ddyfroedd a reolir ac -
 - (i) pan fydd unrhyw un o'r sylweddau y mae llygru'r dyfroedd yn cael ei achosi ganddynt neu'n debygol o gael ei achosi ganddynt yn dod o fewn unrhyw un o'r teuluoedd neu'r grwpiau o sylweddau a restrir ym mharagraff 1 o Atodlen 1 i'r Rheoliadau hyn; a
 - (ii) pan fydd y dyfroedd, neu unrhyw ran o'r dyfroedd, yn cael eu cynnwys o fewn strata tanddaearol sy'n cynnwys, yn gyfan gwbl neu'n rhannol, unrhyw un o'r ffurfiadau creigiau a restrir ym mharagraff 2 o Atodlen 1 i'r Rheoliadau hyn.

Cynnwys hysbysiadau adfer

4.-(1) Rhaid i hysbysiad adfer ddweud (yn ychwanegol at y materion sy'n ofynnol o dan adran 78E(1) a (3)) -

- (a) enw a chyfeiriad y person y cyflwynir yr hysbysiad iddo;
- (b) lleoliad a hyd a lled y tir halogedig y mae'r hysbysiad yn ymwneud ag ef (y cyfeirir ato yn y rheoliad hwn fel y "tir halogedig o dan sylw"), yn ddigon manwl i ganiatáu dod o hyd iddo naill ai drwy gyfeirio at blân neu fel arall;
- (c) dyddiad unrhyw hysbysiad a roddwyd o dan adran 78B i'r person y cyflwynir yr hysbysiad adfer iddo yn pennu'r tir halogedig o dan sylw yn dir halogedig;
- (ch) a yw'r awdurdod gorfodi o'r farn bod y person y cyflwynir yr hysbysiad iddo yn berson priodol trwy-
 - (i) fod wedi achosi neu'n fwriadol wedi caniatáu i'r sylweddau, neu unrhyw un o'r sylweddau, y mae'r tir halogedig o dan sylw yn dir halogedig o'u herwydd, fod yn y tir, arno, neu odano;
 - (ii) fod yn berchennog y tir halogedig o dan sylw; neu
 - (iii) fod yn feddiannydd y tir halogedig o dan sylw;
- (d) manylion y niwed neu'r llygredd sylweddol i ddyfroedd a reolir y mae'r tir halogedig o dan sylw yn dir halogedig o'u herwydd;
- (dd) y sylweddau y mae'r tir halogedig o dan sylw yn dir halogedig o'u herwydd ac, os oes unrhyw un o'r sylweddau wedi dianc o dir

classification applying to the relevant description of waters specified in regulations made under section 82 of the Water Resources Act 1991 (classification of quality of waters)(a); or

- (c) controlled waters are being affected by the land and -
 - (i) any of the substances by reason of which the pollution of the waters is being or is likely to be caused falls within any of the families or groups of substances listed in paragraph 1 of Schedule 1 to these Regulations; and
 - (ii) the waters, or any part of the waters, are contained within underground strata which comprise wholly or partly any of the formations of rocks listed in paragraph 2 of Schedule 1 to these Regulations.

Content of remediation notices

4.-(1) A remediation notice shall state (in addition to the matters required by section 78E(1) and (3)) -

- (a) the name and address of the person on whom the notice is served;
- (b) the location and extent of the contaminated land to which the notice relates (in this regulation referred to as the "contaminated land in question"), sufficient to enable it to be identified whether by reference to a plan or otherwise;
- (c) the date of any notice which was given under section 78B to the person on whom the remediation notice is served identifying the contaminated land in question as contaminated land;
- (d) whether the enforcing authority considers the person on whom the notice is served is an appropriate person by reason of -
 - (i) having caused or knowingly permitted the substances, or any of the substances, by reason of which the contaminated land in question is contaminated land, to be in, on or under that land;
 - (ii) being the owner of the contaminated land in question; or
 - (iii) being the occupier of the contaminated land in question;
- (e) particulars of the significant harm or pollution of controlled waters by reason of which the contaminated land in question is contaminated land;
- (f) the substances by reason of which the contaminated land in question is contaminated

(a) 1991 p.57.

(a) 1991 c.57.

- arall, lleoliad y tir arall hwnnw;
- (e) rhesymau'r awdurdod gorfodi dros ei benderfyniadau ynglŷn â'r pethau y mae'n ofynnol i'r person priodol eu gwneud o ran gwaith adfer, sef rhesymau y mae'n rhaid iddynt ddangos sut y mae unrhyw ganllawiau a gyhoeddwyd gan Gynulliad Cenedlaethol Cymru o dan adran 78E(5) wedi'u cymhwyso;
- (f) pan fydd dau neu ragor o bersonau yn bersonau priodol mewn perthynas â'r tir halogedig o dan sylw -
- (i) mai felly y mae hi;
- (ii) enw a chyfeiriad pob un person o'r fath; a
- (iii) y peth y mae pob person o'r fath yn gyfrifol amdano o ran gwaith adfer;
- (ff) pan fyddai dau neu ragor o bersonau, ar wahân i adran 78F(6), yn bersonau priodol mewn perthynas ag unrhyw beth penodol sydd i'w gwneud o ran gwaith adfer, rhesymau'r awdurdod gorfodi dros ei benderfyniad ynghylch a ddylid trin unrhyw un neu fwy ohonynt, ac os felly, pa rai, fel person nad yw'n berson priodol mewn perthynas â'r peth hwnnw, sef rhesymau y mae'n rhaid iddynt ddangos sut y mae unrhyw ganllawiau a gyhoeddwyd gan Gynulliad Cenedlaethol Cymru o dan adran 78F(6) wedi'u cynhwyso;
- (g) pan fydd adran 78E(3) yn ei gwneud yn ofynnol i'r hysbysiad adfer ddweud pa gyfran o gost peth sydd i'w wneud o ran gwaith adfer y mae pob un o'r personau priodol yn atebol i'w thalu mewn perthynas â'r peth hwnnw, rhesymau'r awdurdod gorfodi am y gyfran y mae wedi penderfynu arni, sef rhesymau y mae'n rhaid iddynt ddangos sut y mae unrhyw ganllawiau a gyhoeddwyd gan Gynulliad Cenedlaethol Cymru o dan adran 78F(7) wedi'u cymhwyso;
- (ng) pan fydd yn hysbys i'r awdurdod gorfodi, enw a chyfeiriad -
- (i) perchennog y tir halogedig o dan sylw; a
- (ii) unrhyw berson y mae'n ymddangos i'r awdurdod gorfodi ei fod yn meddiannu'r cyfan neu unrhyw ran o'r tir halogedig o dan sylw;
- (h) pan fydd yn hysbys i'r awdurdod gorfodi, enw a chyfeiriad unrhyw berson y mae'n ofynnol cael ei gydsyniad o dan adran 78G(2) cyn y gellir gwneud unrhyw beth sy'n ofynnol o dan yr hysbysiad adfer;
- (i) pan fwriedir cyflwyno'r hysbysiad drwy ddibynnu ar adran 78H(4), ei bod yn
- land and, if any of the substances have escaped from other land, the location of that other land;
- (g) the enforcing authority's reasons for its decisions as to the things by way of remediation that the appropriate person is required to do, which shall show how any guidance issued by the National Assembly for Wales under section 78E(5) has been applied;
- (h) where two or more persons are appropriate persons in relation to the contaminated land in question -
- (i) that this is the case;
- (ii) the name and address of each such person; and
- (iii) the thing by way of remediation for which each such person bears responsibility;
- (i) where two or more persons would, apart from section 78F(6), be appropriate persons in relation to any particular thing which is to be done by way of remediation, the enforcing authority's reasons for its determination as to whether any, and if so which, of them is to be treated as not being an appropriate person in relation to that thing, which shall show how any guidance issued by the National Assembly for Wales under section 78F(6) has been applied;
- (j) where the remediation notice is required by section 78E(3) to state the proportion of the cost of a thing which is to be done by way of remediation which each of the appropriate persons in relation to that thing is liable to bear, the enforcing authority's reasons for the proportion which it has determined, which shall show how any guidance issued by the National Assembly for Wales under section 78F(7) has been applied;
- (k) where known to the enforcing authority, the name and address of -
- (i) the owner of the contaminated land in question; and
- (ii) any person who appears to the enforcing authority to be in occupation of the whole or any part of the contaminated land in question;
- (l) where known to the enforcing authority, the name and address of any person whose consent is required under section 78G(2) before anything required by the remediation notice may be done;
- (m) where the notice is to be served in reliance on section 78H(4), that it appears to the enforcing

ymddangos i'r awdurdod gorfodi bod y tir halogedig o dan sylw yn y fath gyflwr, oherwydd y sylweddau sydd yn y tir, arno neu odano, nes bod perygl ar fin digwydd o beri niwed difrifol neu lygredd difrifol i ddyfroedd a reolir;

- (j) y gall person y cyflwynwyd hysbysiad adfer iddo fod yn euog o drosedd(a) am fethu, heb esgus rhesymol, â chydymffurfio ag unrhyw un o ofynion yr hysbysiad;
- (l) y cosbau y gellir eu cymhwyso ar ôl collfarn am drosedd o'r fath(b);
- (ll) enw a chyfeiriad yr awdurdod gorfodi sy'n cyflwyno'r hysbysiad; ac
- (m) dyddiad yr hysbysiad.

(2) Rhaid i hysbysiad adfer esbonio -

- (a) bod gan berson y'i cyflwynir iddo hawl i apelio yn erbyn yr hysbysiad o dan adran 78L;
- (b) sut, o fewn pa gyfnod ac ar ba sail, y gellir apelio; ac
- (c) bod hysbysiad yn cael ei atal, pan fydd apêl yn cael ei gwneud yn briodol, nes penderfynu'n derfynol ar yr apêl neu roi'r gorau iddi.

Cyflwyno copïau o hysbysiau adfer

5.-(1) Yn ddarostyngedig i baragraff (2) isod, rhaid i'r awdurdod gorfodi, yr un pryd ag y mae'n cyflwyno hysbysiad adfer, anfon copi ohono at bob un o'r personau canlynol, nad yw'n berson y mae'r hysbysiad i fod i gael ei gyflwyno iddo -

- (a) unrhyw berson yr oedd yn ofynnol ymgynghori ag ef o dan adran 78G(3) cyn cyflwyno'r hysbysiad;
- (b) unrhyw berson yr oedd yn ofynnol ymgynghori ag ef o dan adran 78H(1) cyn cyflwyno'r hysbysiad;
- (c) os yr awdurdod lleol yw'r awdurdod gorfodi, Asiantaeth yr Amgylchedd; ac
- (ch) os Asiantaeth yr Amgylchedd yw'r awdurdod gorfodi, yr awdurdod lleol y mae'r tir halogedig o dan sylw wedi'i leoli yn ei ardal.

(2) Pan fydd yn ymddangos i'r awdurdod gorfodi fod y tir halogedig o dan sylw yn y fath gyflwr oherwydd y sylweddau sydd ynddo, arno neu odano nes bod perygl ar fin digwydd o beri niwed difrifol i neu lygredd difrifol i ddyfroedd a reolir, rhaid i'r awdurdod gorfodi anfon unrhyw gopïau o'r hysbysiad yn unol â pharagraff (1) uchod cyn gynted ag y bo'n ymarferol ar ôl cyflwyno'r hysbysiad.

Iawndal am hawliau mynediad etc.

6. Bydd Atodlen 2 i'r Rheoliadau hyn yn cael effaith -

- (a) ar gyfer rhagnodi'r cyfnod pryd y caiff person

(a) Adran 78M(1)

(b) Adran 78M(1) a (3).

authority that the contaminated land in question is in such a condition, by reason of substances in, on or under the land, that there is imminent danger of serious harm, or serious pollution of controlled waters, being caused;

- (n) that a person on whom a remediation notice is served may be guilty of an offence(a) for failure, without reasonable excuse, to comply with any of the requirements of the notice;
- (o) the penalties which may be applied on conviction for such an offence(b);
- (p) the name and address of the enforcing authority serving the notice; and
- (q) the date of the notice.

(2) A remediation notice shall explain -

- (a) that a person on whom it is served has a right of appeal against the notice under section 78L;
- (b) how, within that period and on what grounds an appeal may be made; and
- (c) that a notice is suspended, where an appeal is duly made, until the final determination or abandonment of the appeal.

Service of copies of remediation notices

5.-(1) Subject to paragraph (2) below, the enforcing authority shall, at the same time as it serves a remediation notice, send a copy of it to each of the following persons, not being a person on whom the notice is to be served -

- (a) any person who was required to be consulted under section 78G(3) before service of the notice;
- (b) any person who was required to be consulted under section 78H(1) before service of the notice;
- (c) where the local authority is the enforcing authority, the Environment Agency; and
- (d) where the Environment Agency is the enforcing authority, the local authority in whose area the contaminated land in question is situated.

(2) Where it appears to the enforcing authority that the contaminated land in question is in such a condition by reason of substances in, on or under it that there is imminent danger of serious harm, or serious pollution of controlled waters, being caused, the enforcing authority shall send any copies of the notice pursuant to paragraph (1) above as soon as practicable after service of the notice.

Compensation for rights of entry etc.

6. Schedule 2 to these Regulations shall have effect -

- (a) for prescribing the period within which a

(a) Section 78M(1).

9 (b) Section 78M(1) and (3).

sy'n rhoi, neu'n ymuno i roi, unrhyw hawliau yn unol ag adran 78G(2) wneud cais am iawndal am roi'r hawliau hynny;

- (b) ar gyfer rhagnodi dull gwneud cais o'r fath, a'r person y gellir gwneud y cais iddo: ac
- (c) ar gyfer rhagnodi drwy ba ddull y mae'n rhaid penderfynu swm yr iawndal hwnnw ac ar gyfer gwneud darpariaeth bellach ynglŷn â'r iawndal hwnnw.

Seiliau apêl yn erbyn hysbysiad adfer

7.-(1) Mae unrhyw un neu fwy o'r canlynol yn seiliau apêl yn erbyn hysbysiad adfer o dan adran 78L(1) -

- (a) bod yr awdurdod lleol, wrth benderfynu a yw'n ymddangos bod unrhyw dir y mae'r hysbysiad yn berthnasol iddo yn dir halogedig -
 - (i) wedi methu â gweithredu yn unol â'r canllawiau a gyhoeddwyd gan Gynulliad Cenedlaethol Cymru o dan adran 78A(2), (5) neu (6); neu
 - (ii) p'un ai oherwydd y methiant hwnnw neu fel arall, wedi bod yn afresymol wrth enwi'r holl dir y mae'r hysbysiad yn berthnasol iddo yn dir halogedig neu unrhyw ran ohono;
- (b) bod yr awdurdod gorfodi, wrth benderfynu ar un o ofynion yr hysbysiad -
 - (i) wedi methu â rhoi sylw i ganllawiau a gyhoeddwyd gan Gynulliad Cenedlaethol Cymru o dan adran 78E(5); neu
 - (ii) p'un ai oherwydd y methiant hwnnw neu fel arall, wedi bod yn afresymol wrth ei gwneud yn ofynnol i'r apelydd wneud unrhyw beth o ran gwaith adfer;
- (c) bod yr awdurdod gorfodi wedi bod yn afresymol wrth benderfynu mai'r apelydd yw'r person priodol sydd i ysgwyddo'r cyfrifoldeb dros unrhyw beth y mae'n ofynnol ei wneud o ran gwaith adfer o dan yr hysbysiad;
- (ch) yn ddarostyngedig i baragraff (2) isod, bod yr awdurdod gorfodi wedi bod yn afresymol wrth fethu â phenderfynu bod rhyw berson yn ychwanegol at yr apelydd yn berson priodol mewn perthynas ag unrhyw beth y mae'n ofynnol ei wneud o ran gwaith adfer o dan yr hysbysiad;
- (d) bod yr awdurdod gorfodi, mewn perthynas ag unrhyw beth y mae'r hysbysiad yn ei gwneud yn ofynnol ei wneud o ran gwaith adfer, wedi methu â gweithredu yn unol â chanllawiau a gyhoeddwyd gan Gynulliad Cenedlaethol Cymru o dan adran 78F(6);
- (dd) pan fydd dau neu ragor o bersonau priodol

person who grants, or joins in granting, any rights pursuant to section 78G(2) may apply for compensation for the grant of those rights;

- (b) for prescribing the manner in which, and the person to whom, such an application may be made; and
- (c) for prescribing the manner in which the amount of such compensation shall be determined and for making further provision relating to such compensation.

Grounds of appeal against a remediation notice

7.-(1) The grounds of appeal against a remediation notice under section 78L(1) are any of the following -

- (a) that, in determining whether any land to which the notice relates appears to be contaminated land, the local authority -
 - (i) failed to act in accordance with guidance issued by the National Assembly for Wales under section 78A(2), (5) or (6); or
 - (ii) whether by reason of such a failure or otherwise, unreasonably identified all or any of the land to which the notice relates as contaminated land;
- (b) that, in determining a requirement of the notice, the enforcing authority -
 - (i) failed to have regard to guidance issued by the National Assembly for Wales under section 78E(5); or
 - (ii) whether by reason of such a failure or otherwise, unreasonably required the appellant to do anything by way of remediation;
- (c) that the enforcing authority unreasonably determined the appellant to be the appropriate person who is to bear responsibility for anything required by the notice to be done by way of remediation;
- (d) subject to paragraph (2) below, that the enforcing authority unreasonably failed to determine that some person in addition to the appellant is an appropriate person in relation to anything required by the notice to be done by way of remediation;
- (e) that, in respect of anything required by the notice to be done by way of remediation, the enforcing authority failed to act in accordance with guidance issued by the National Assembly for Wales under section 78F(6);
- (f) that, where two or more persons are

mewn perthynas ag unrhyw beth y mae'r hysbysiad yn ei gwneud yn ofynnol ei wneud o ran gwaith adfer, bod yr awdurdod gorfodi -

- (i) wedi methu â phenderfynu pa gyfran o'r gost y datganwyd yn yr hysbysiad fod yr apelydd yn atebol i'w thalu yn unol â chanllawiau a gyhoeddwyd gan Gynulliad Cenedlaethol Cymru o dan adran 78F(7); neu
- (ii) p'un ai oherwydd y methiant hwnnw neu fel arall, wedi bod yn afresymol wrth benderfynu pa gyfran o'r gost y mae'r apelydd i'w thalu;
- (e) bod cyflwyno'r hysbysiad wedi torri un o ddarpariaethau is-adran (1) neu (3) o adran 78H (cyfyngiadau a gwaharddiadau ar gyflwyno hysbysiadau adfer) heblaw o dan amgylchiadau pan fydd adran 78H(4) yn gymwys;
- (f) pan gyflwynwyd yr hysbysiad drwy ddibynnu ar adran 78H(4) heb gydymffurfio ag adran 78H(1) neu (3), na fuasai'n rhesymol i'r awdurdod gorfodi farnu bod y tir halogedig o dan sylw yn y fath gyflwr oherwydd sylweddau yn y tir, arno, neu odano, bod perygl ar fin digwydd o beri niwed difrifol, neu lygredd difrifol i ddyfroedd a reolir;
- (ff) bod yr awdurdod gorfodi wedi methu'n afresymol â chael ei fodloni, yn unol ag adran 78H(5)(b), fod pethau priodol yn cael eu gwneud, neu y byddant yn cael eu gwneud, o ran gwaith adfer heb gyflwyno hysbysiad;
- (g) bod unrhyw beth yr oedd yn ofynnol ei wneud o dan yr hysbysiad o ran gwaith adfer wedi'i wneud yn ofynnol drwy dorri darpariaeth yn adran 78J (cyfyngiadau ar atebolrwydd ynglŷn â llygru dyfroedd a reolir);
- (ng) bod unrhyw beth yr oedd yn ofynnol ei wneud o dan yr hysbysiad o ran gwaith adfer wedi'i wneud yn ofynnol drwy dorri darpariaeth yn adran 78K (atebolrwydd mewn perthynas â sylweddau halogi sy'n dianc i dir arall);
- (h) bod gan yr awdurdod gorfodi ei hun bŵer, mewn achos sy'n dod o fewn adran 78N(3)(b), i wneud yr hyn sy'n briodol o ran gwaith adfer;
- (i) bod gan yr awdurdod gorfodi ei hun bŵer, mewn achos sy'n dod o fewn adran 78N(3)(e), i wneud yr hyn sy'n briodol o ran gwaith adfer;
- (j) bod yr awdurdod gorfodi, wrth bwysu a mesur at ddibenion adran 78N(3)(e), a fyddai'n ceisio adennill y cyfan neu gyfran o'r gost a dynnwyd ganddo wrth wneud rhyw beth penodol o ran gwaith adfer -

appropriate persons in relation to anything required by the notice to be done by way of remediation, the enforcing authority -

- (i) failed to determine the proportion of the cost stated in the notice to be the liability of the appellant in accordance with guidance issued by the National Assembly for Wales under section 78F(7); or
- (ii) whether, by reason of such a failure or otherwise, unreasonably determined the proportion of the cost that the appellant is to bear;
- (g) that service of the notice contravened a provision of subsection (1) or (3) of section 78H (restrictions and prohibitions on serving remediation notices) other than in circumstances where section 78H(4) applies;
- (h) that, where the notice was served in reliance on section 78H(4) without compliance with section 78H(1) or (3), the enforcing authority could not reasonably have taken the view that the contaminated land in question was in such a condition by reason of substances in, on or under the land, that there was imminent danger of serious harm, or serious pollution of controlled waters, being caused;
- (i) that the enforcing authority has unreasonably failed to be satisfied, in accordance with section 78H(5)(b), that appropriate things are being, or will be, done by way of remediation without service of a notice;
- (j) that any thing required by the notice to be done by way of remediation was required in contravention of a provision of section 78J (restrictions on liability relating to the pollution of controlled waters);
- (k) that any thing required by the notice to be done by way of remediation was required in contravention of a provision of section 78K (liability in respect of contaminating substances which escape to other land);
- (l) that the enforcing authority itself has power, in a case falling within section 78N(3)(b), to do what is appropriate by way of remediation;
- (m) that the enforcing authority itself has power, in a case falling within section 78N(3)(e), to do what is appropriate by way of remediation;
- (n) that the enforcing authority, in considering for the purposes of section 78N(3)(e), whether it would seek to recover all or a portion of the cost incurred by it in doing some particular thing by way of remediation -

- (i) wedi methu â rhoi sylw i unrhyw galedi y gallai'r adennill ei achosi i'r person y gellid adennill y gost oddi wrtho neu i unrhyw ganllawiau a gyhoeddwyd gan Gynulliad Cenedlaethol Cymru at ddibenion adran 78P(2); neu
 - (ii) p'un ai oherwydd y methiant hwnnw neu fel arall, wedi bod yn afresymol wrth benderfynu y byddai'n penderfynu ceisio adennill y cyfan o'r gost;
 - (l) bod yr awdurdod gorfodi, wrth benderfynu un o ofynion yr hysbysiad, wedi methu â rhoi sylw i ganllawiau a gyhoeddwyd gan Asiantaeth yr Amgylchedd o dan adran 78V(1);
 - (ll) nad yw cyfnod a bennwyd yn yr hysbysiad fel cyfnod pryd y mae'n ofynnol i'r apelydd wneud unrhyw beth yn rhesymol ddigonol at y diben;
 - (m) bod yr hysbysiad yn darparu i berson sy'n gweithredu yn rhinwedd swydd berthnasol(a) fod yn atebol yn bersonol i dalu'r cyfan neu ran o gost gwneud unrhyw beth o ran gwaith adfer, yn groes i ddarpariaethau adran 78X(3)(a);
 - (n) bod cyflwyno'r hysbysiad wedi torri un o ddarpariaethau adran 78YB (cydadwaith Rhan IIA o Ddeddf Diogelu'r Amgylchedd 1990 â deddfiadau eraill), ac -
 - (i) mewn achos lle dibynnir ar is-adran (1) o'r adran honno, y dylai yn rhesymol fod wedi ymddangos i'r awdurdod gorfodi y gallai pwerau Asiantaeth yr Amgylchedd o dan adran 27 gael eu harfer;
 - (ii) mewn achos lle dibynnir ar is-adran (3) o adran 78YB, y dylai yn rhesymol fod wedi ymddangos i'r awdurdod gorfodi y gallai pwerau awdurdod rheoli gwastraff neu awdurdod casglu gwastraff o dan adran 59 gael eu harfer; neu
 - (o) y cafwyd rhyw anffurfioldeb, diffyg neu gamgymeriad yn yr hysbysiad, neu mewn cysylltiad ag ef, nad oes unrhyw hawl i apelio mewn perthynas ag ef o dan y seiliau a nodir yn is-baragraffau (a) i (n) uchod.
- (2) Caiff person apelio ar y sail a bennir ym mharagraff (1)(ch) uchod dim ond mewn achos -
- (a) pan fydd yr awdurdod gorfodi wedi penderfynu ei fod yn berson priodol yn rhinwedd is-adran (2) o adran 78F a'i fod yn honni ei fod wedi dod o hyd i ryw berson arall sy'n berson priodol yn rhinwedd yr is-adran honno;
 - (b) pan yw'r hysbysiad wedi'i gyflwyno iddo fel perchennog neu feddiannydd y tir halogedig o dan sylw am y tro a'i fod yn honni ei fod wedi
- (i) failed to have regard to any hardship which the recovery may cause to the person from whom the cost is recoverable or to any guidance issued by the National Assembly for Wales for the purposes of section 78P(2); or
 - (ii) whether by reason of such a failure or otherwise, unreasonably determined that it would decide to seek to recover all of the cost;
 - (o) that, in determining a requirement of the notice, the enforcing authority failed to have regard to guidance issued by the Environment Agency under section 78V(1);
 - (p) that a period specified in the notice within which the appellant is required to do anything is not reasonably sufficient for the purpose;
 - (q) that the notice provides for a person acting in a relevant capacity(a) to be personally liable to bear the whole or part of the cost of doing any thing by way of remediation, contrary to the provisions of section 78X(3)(a);
 - (r) that service of the notice contravened a provision of section 78YB (interaction of Part IIA of the Environmental Protection Act 1990 with other enactments), and -
 - (i) in a case where subsection (1) of that section is relied on, that it ought reasonably to have appeared to the enforcing authority that the powers of the Environment Agency under section 27 might be exercised;
 - (ii) in a case where subsection (3) of section 78YB is relied on, that it ought reasonably to have appeared to the enforcing authority that the powers of a waste regulation authority or waste collection authority under section 59 might be exercised; or
 - (s) that there has been some informality, defect or error in, or in connection with, the notice, in respect of which there is no right of appeal under the grounds set out in sub-paragraphs (a) to (r) above.
- (2) A person may only appeal on the ground specified in paragraph (1)(d) above in a case where -
- (a) the enforcing authority has determined that he is an appropriate person by virtue of subsection (2) of section 78F and he claims to have found some other person who is an appropriate person by virtue of that subsection;
 - (b) the notice is served on him as the owner or occupier for the time being of the contaminated land in question and he claims to

(a) Ar gyfer y diffiniad o "person acting in a relevant capacity" gweler adran 78X(4).

(a) For the definition of "person acting in a relevant capacity" see section 78X(4).

dod o hyd i ryw berson arall sy'n berson priodol yn rhinwedd yr is-adran honno; neu

- (c) pan yw'r hysbysiad wedi'i gyflwyno iddo fel perchennog neu feddiannydd y tir halogedig o dan sylw am y tro, a'i fod yn honni bod rhyw berson arall hefyd yn berchennog neu'n feddiannydd y cyfan neu ran o'r tir hwnnw am y tro.

(3) Os yw apêl yn erbyn hysbysiad adfer wedi'i seilio ar ryw anffurfioldeb, diffyg neu gamgymeriad yn yr hysbysiad, neu mewn cysylltiad ag ef, ac i'r graddau bod apêl wedi'i seilio ar y sail honno, rhaid i'r awdurdod apeliadol wrthod yr apêl os yw wedi'i fodloni nad oedd yr anffurfioldeb, y diffyg na'r camgymeriad yn un o sylwedd.

Apelau i lys ynadon

8.-(1) Rhaid i apêl o dan adran 78L(1) i lys ynadon yn erbyn hysbysiad adfer fod ar ffurf cŵyn ar gyfer gorchymyn ac, yn ddarostyngedig i adran 78L(2) a (3) a rheoliadau 7(3), 12 a 13, bydd Deddf Llysoedd Ynadon 1980(a) yn gymwys i'r achos.

(2) Rhaid i apelydd, yr un pryd ag y mae'n gwneud cŵyn, -

- (a) adneuo hysbysiad ("hysbysiad apêl") a chyflwyno copi ohono -
- (i) i'r awdurdod gorfodi;
 - (ii) i unrhyw berson a enwir yn yr hysbysiad adfer yn berson priodol;
 - (iii) i unrhyw berson a enwir yn yr hysbysiad apêl yn berson priodol;
 - (iv) i unrhyw berson a enwir yn yr hysbysiad adfer yn berchennog neu'n feddiannydd y cyfan neu unrhyw ran o'r tir y mae'r hysbysiad yn berthnasol iddo;
- (b) adneuo copi o'r hysbysiad adfer y mae'r apêl yn ymwneud ag ef a chyflwyno copi ohono i unrhyw berson a enwir yn yr hysbysiad apêl yn berson priodol na chafodd ei enwi felly yn yr hysbysiad adfer; ac
- (c) adneuo datganiad o enwau a chyfeiriadau unrhyw bersonau sy'n dod o fewn paragraff (ii), (iii) neu (iv) o is-baragraff (a) uchod.

(3) Rhaid i'r hysbysiad apêl nodi enw a chyfeiriad yr apelydd ac ar ba seiliau y mae'r apêl yn cael ei gwneud.

(4) Ar apêl o dan adran 78L(1) i lys ynadon -

- (a) caiff clerc yr ynadon neu'r llys roi, amrywio neu ddiddymu cyfarwyddiadau ar gyfer cynnal yr achos, gan gynnwys -
- (i) yr amserlen ar gyfer yr achos;

have found some other person who is an appropriate person by virtue of that subsection; or

- (c) the notice is served on him as the owner or occupier for the time being of the contaminated land in question, and he claims that some other person is also an owner or occupier for the time being of the whole or part of that land.

(3) If and in so far as an appeal against a remediation notice is based on the ground of some informality, defect or error in, or in connection with, the notice, the appellate authority shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

Appeals to a magistrates' court

8.-(1) An appeal under section 78L(1) to a magistrates' court against a remediation notice shall be by way of complaint for an order and, subject to section 78L(2) and (3) and regulations 7(3), 12 and 13, the Magistrates' Courts Act 1980(a) shall apply to the proceedings.

(2) An appellant shall, at the same time as he makes a complaint, -

- (a) file a notice ("notice of appeal") and serve a copy of it on -
- (i) the enforcing authority;
 - (ii) any person named in the remediation notice as an appropriate person;
 - (iii) any person named in the notice of appeal as an appropriate person;
 - (iv) any person named in the remediation notice as the owner or occupier of the whole or any part of the land to which the notice relates;
- (b) file a copy of the remediation notice to which the appeal relates and serve a copy of it on any person named in the notice of appeal as an appropriate person who was not so named in the remediation notice; and
- (c) file a statement of the names and addresses of any persons falling within paragraph (ii), (iii) or (iv) of sub-paragraph (a) above.

(3) The notice of appeal shall state the appellant's name and address and the grounds on which the appeal is made.

(4) On an appeal under section 78L(1) to a magistrates' court -

- (a) the justices' clerk or the court may give, vary or revoke directions for the conduct of proceedings, including -
- (i) the timetable for the proceedings;

(a) 1980 p.43.

(a) 1980 c.43.

- (ii) cyflwyno dogfennau;
- (iii) cyflwyno tystiolaeth; a
- (iv) trefn yr areithiau;
- (b) rhaid i unrhyw berson sy'n dod o fewn paragraff (2)(a)(ii), (iii) neu (iv) uchod gael ei hysbysu ynghylch gwrandawriad y gŵyn ac unrhyw wrandawriad ar gyfer cyfarwyddiadau, a chyfle i gael ei wrando yn y gwrandawiadau hynny, yn ychwanegol at yr apelydd a'r awdurdod gorfodi; ac
- (c) caiff y llys wrthod caniatáu cais gan yr apelydd i roi'r gorau i'w apêl yn erbyn hysbysiad adfer, pan fydd y cais yn cael ei wneud ar ôl i'r llys hysbysu'r apelydd yn unol â rheoliad 12(1) o addasiad arfaethedig i'r hysbysiad hwnnw.

(5) Bydd Rheol 15 o Reolau Llysoedd Achosion Teuluol (Achosion Priodasol etc.) 1991(a) (dirprwyo gan glerc ynadon) yn gymwys at ddibenion apêl o dan adran 78L(1) i lys ynadon fel y mae'n gymwys at ddibenion Rhan II o'r Rheolau hynny.

(6) Yn y rheoliad hwn, ystyr "adnewo" yw adnewo gyda chlerc yr ynadon.

Apelau i Gynulliad Cenedlaethol Cymru

9.-(1) Rhaid i apêl i Gynulliad Cenedlaethol Cymru yn erbyn hysbysiad adfer gael ei wneud drwy hysbysiad iddo ("hysbysiad apêl"), sef hysbysiad y mae'n rhaid iddo ddweud -

- (a) enw a chyfeiriad yr apelydd;
- (b) ar ba seiliau y gwneir yr apêl; ac
- (c) a yw'r apelydd yn dymuno i'r apêl fod ar ffurf gwrandawriad neu gael ei phenderfynu ar sail sylwadau ysgrifenedig.

(2) Rhaid i'r apelydd, yr un pryd ag y mae'n cyflwyno hysbysiad apêl i Gynulliad Cenedlaethol Cymru, -

- (a) cyflwyno copi ohono i'r canlynol -
 - (i) Asiantaeth yr Amgylchedd;
 - (ii) unrhyw berson a enwir yn yr hysbysiad adfer yn berson priodol;
 - (iii) unrhyw berson a enwir yn yr hysbysiad apêl yn berson priodol; a
 - (iv) unrhyw berson a enwir yn yr hysbysiad adfer yn berchennog neu'n feddiannydd y cyfan neu unrhyw ran o'r tir y mae'r hysbysiad yn ymwneud ag ef;
 a chyflwyno i Gynulliad Cenedlaethol Cymru ddatganiad o enwau a chyfeiriadau unrhyw bersonau sy'n dod o fewn paragraff (ii), (iii) neu (iv) uchod; a

- (ii) the service of documents;
- (iii) the submission of evidence; and
- (iv) the order of speeches;
- (b) any person falling within paragraph (2)(a)(ii), (iii) or (iv) above shall be given notice of, and an opportunity to be heard at, the hearing of the complaint and any hearing for directions, in addition to the appellant and the enforcing authority; and
- (c) the court may refuse to grant a request by the appellant to abandon his appeal against a remediation notice, where the request is made after the court has notified the appellant in accordance with regulation 12(1) of a proposed modification of that notice.

(5) Rule 15 of the Family Proceedings Courts (Matrimonial Proceedings etc.) Rules 1991(a) (delegation by justices' clerk) shall apply for the purposes of an appeal under section 78L(1) to a magistrates' court as it applies for the purposes of Part II of those Rules.

(6) In this regulation, "file" means deposit with the justices' clerk.

Appeals to the National Assembly for Wales

9.-(1) An appeal to the National Assembly for Wales against a remediation notice shall be made to it by a notice ("notice of appeal") which shall state -

- (a) the name and address of the appellant;
- (b) the grounds on which the appeal is made; and
- (c) whether the appellant wishes the appeal to be in the form of a hearing or to be disposed of on the basis of written representations.

(2) The appellant shall, at the same time as he serves a notice of appeal on the National Assembly for Wales, -

- (a) serve a copy of it on -
 - (i) the Environment Agency;
 - (ii) any person named in the remediation notice as an appropriate person;
 - (iii) any person named in the notice of appeal as an appropriate person; and
 - (iv) any person named in the remediation notice as the owner or occupier of the whole or any part of the land to which the notice relates;
 and serve on the National Assembly for Wales a statement of the names and addresses of any persons falling within paragraph (ii), (iii) or (iv) above; and

(a) O.S. 1991/1991 (L.32)

(a) S.I. 1991/1991 (L.32).

- (b) cyflwyno copi o'r hysbysiad adfer y mae'r apêl yn ymwneud ag ef i Gynulliad Cenedlaethol Cymru ac i unrhyw berson a enwir yn yr hysbysiad apêl yn berson priodol nad yw wedi'i enwi felly yn yr hysbysiad adfer.

(3) Yn ddarostyngedig i baragraff (5) isod, os yw'r apelydd yn dymuno rhoi'r gorau i apêl, rhaid iddo wneud hynny drwy hysbysu Cynulliad Cenedlaethol Cymru yn ysgrifenedig ac ymdrinnir â'r apêl fel un y rhodddwyd y gorau iddi ar y dyddiad y bydd Cynulliad Cenedlaethol Cymru yn cael yr hysbysiad hwnnw.

(4) Caiff Cynulliad Cenedlaethol Cymru wrthod caniatáu i apelydd roi'r gorau i'w apêl yn erbyn hysbysiad adfer pan ddaw'r hysbysiad gan yr apelydd yn unol â pharagraff (3) uchod i law Cynulliad Cenedlaethol Cymru ar unrhyw adeg ar ôl i Gynulliad Cenedlaethol Cymru hysbysu'r apelydd yn unol â rheoliad 12(1) o addasiad arfaethedig i'r hysbysiad hwnnw.

(5) Pan roir y gorau i apêl, rhaid i Gynulliad Cenedlaethol Cymru roi hysbysiad y rhodddwyd y gorau iddi i unrhyw berson yr oedd yn ofynnol i'r apelydd gyflwyno copi o'r hysbysiad apêl iddo.

Gwrandawiaidau ac ymchwiliadau lleol

10.-(1) Cyn penderfynu apêl, caiff Cynulliad Cenedlaethol Cymru, os yw'n credu ei bod yn briodol, -

- (a) peri bod yr apêl yn cael ei chynnal neu ei pharhau ar ffurf gwrandawriad (a gall y gwrandawriad hwnnw gael ei gynnal, neu gael ei gynnal i unrhyw raddau, yn breifat, os yw'r person sy'n gwrandao'r apêl yn penderfynu felly), neu
- (b) peri bod ymchwiliad lleol yn cael ei gynnal,

a rhaid i Gynulliad Cenedlaethol Cymru weithredu fel y crybwyllir yn is-baragraff (a) neu (b) uchod os gwneir cais gan naill ai'r apelydd neu Asiantaeth yr Amgylchedd am gael eu gwrandao mewn perthynas â'r apêl.

(2) Dyma'r personau y mae ganddynt hawl i gael eu gwrandao mewn gwrandawriad -

- (a) yr apelydd;
- (b) Asiantaeth yr Amgylchedd; ac
- (c) unrhyw berson (heblaw'r Asiantaeth) yr oedd yn ofynnol i'r apelydd gyflwyno copi o'r hysbysiad apêl iddo.

(3) Ni fydd dim ym mharagraff (2) uchod yn atal y person a benodir i gynnal gwrandawriad yr apêl rhag caniatáu i unrhyw berson arall gael ei wrando yn y gwrandawriad a rhaid peidio â gwrthod caniatâd o'r fath yn afresymol.

(4) Ar ôl i wrandawriad ddod i ben, rhaid i'r person a benodir i gynnal y gwrandawriad, oni bai ei fod wedi'i

- (b) serve a copy of the remediation notice to which the appeal relates on the National Assembly for Wales and on any person named in the notice of appeal as an appropriate person who is not so named in the remediation notice.

(3) Subject to paragraph (5) below, if the appellant wishes to abandon an appeal, he shall do so by notifying the National Assembly for Wales in writing and the appeal shall be treated as abandoned on the date the National Assembly for Wales receives that notification.

(4) The National Assembly for Wales may refuse to permit an appellant to abandon his appeal against a remediation notice where the notification by the appellant in accordance with paragraph (3) above is received by the National Assembly for Wales at any time after the National Assembly for Wales has notified the appellant in accordance with regulation 12(1) of a proposed modification of that notice.

(5) Where an appeal is abandoned, the National Assembly for Wales shall give notice of the abandonment to any person on whom the appellant was required to serve a copy of the notice of appeal.

Hearings and local inquiries

10.-(1) Before determining an appeal, the National Assembly for Wales may, if it thinks fit -

- (a) cause the appeal to take or continue in the form of a hearing (which may, if the person hearing the appeal so decides, be held, or held to any extent, in private); or
- (b) cause a local inquiry to be held,

and the National Assembly for Wales shall act as mentioned in sub-paragraph (a) or (b) above if a request is made by either the appellant or the Environment Agency to be heard with respect to the appeal.

(2) The persons entitled to be heard at a hearing are -

- (a) the appellant;
- (b) the Environment Agency; and
- (c) any person (other than the Agency) on whom the appellant was required to serve a copy of the notice of appeal.

(3) Nothing in paragraph (2) above shall prevent the person appointed to conduct the hearing of the appeal from permitting any other person to be heard at the hearing and such permission shall not be unreasonably withheld.

(4) After the conclusion of a hearing, the person appointed to conduct the hearing shall, unless he has

benodi o dan adran 114(1)(a) o Ddeddf yr Amgylchedd 1995 (pŵer Cynulliad Cenedlaethol Cymru i ddirprwyo ei swyddogaethau penderfynu apelau) i benderfynu'r apêl, gyflwyno adroddiad ysgrifenedig i Gynulliad Cenedlaethol Cymru a fydd yn cynnwys ei gasgliadau a'i argymhellion neu ei resymau dros beidio â gwneud unrhyw argymhellion.

Hysbysu ynghylch penderfyniad y Cynulliad Cenedlaethol ar apêl

11.-(1) Rhaid i Gynulliad Cenedlaethol Cymru hysbysu'r apelydd yn ysgrifenedig o'i benderfyniad ar apêl a darparu copi o unrhyw adroddiad a grybwyllir yn rheoliad 10(4).

(2) Rhaid i Gynulliad Cenedlaethol Cymru, yr un pryd ag y mae'n hysbysu'r apelydd, anfon copi o'r dogfennau a grybwyllir ym mharagraff (1) uchod i Asiantaeth yr Amgylchedd ac at unrhyw berson arall yr oedd yn ofynnol i'r apelydd gyflwyno copi o'r hysbysiad apêl iddo.

Addasu hysbysiad adfer

12.-(1) Cyn addasu hysbysiad adfer o dan adran 78L(2)(b) mewn unrhyw ffordd a fyddai'n llai ffafriol i'r apelydd neu i unrhyw berson arall y cyflwynwyd yr hysbysiad iddo, rhaid i'r awdurdod apeliadol -

- (a) hysbysu'r apelydd ac unrhyw bersonau yr oedd yn ofynnol i'r apelydd gyflwyno copi o'r hysbysiad apêl iddynt o'r addasiad arfaethedig;
- (b) caniatáu i unrhyw bersonau a hysbyswyd felly gyflwyno sylwadau mewn perthynas â'r addasiad arfaethedig; ac
- (c) caniatáu i'r apelydd neu unrhyw berson arall y cyflwynwyd yr hysbysiad adfer iddo gael ei wrando os bydd unrhyw berson o'r fath yn gofyn am hynny.

(2) Pan fydd yr apelydd neu unrhyw berson arall yn cael ei wrando, yn unol â pharagraff (1) uchod, bydd gan yr awdurdod gorfodi hawl i gael ei wrando hefyd.

Apelau i'r Uchel Lys

13. Gall apêl yn erbyn unrhyw benderfyniad gan lys ynadon yn unol ag apêl o dan adran 78L(1) gael ei chyflwyno gerbron yr Uchel Lys ar gais unrhyw barti i'r achos y rhoddwyd y penderfyniad ynddo (gan gynnwys unrhyw berson a arferodd ei hawl o dan reoliad 8(4)(b) i gael ei wrando yn ngwrandawriad y gŵyn).

been appointed under section 114(1)(a) of the Environment Act 1995 (power of the National Assembly for Wales to delegate its functions of determining appeals) to determine the appeal, make a report in writing to the National Assembly for Wales which shall include his conclusions and his recommendations or his reasons for not making any recommendations.

Notification of National Assembly's decision on appeal

11.-(1) The National Assembly for Wales shall notify the appellant in writing of its decision on an appeal and shall provide him with a copy of any report mentioned in regulation 10(4).

(2) The National Assembly for Wales shall, at the same time as it notifies the appellant, send a copy of the documents mentioned in paragraph (1) above to the Environment Agency and to any other person on whom the appellant was required to serve a copy of the notice of appeal.

Modification of a remediation notice

12.-(1) Before modifying a remediation notice under section 78L(2)(b) in any respect which would be less favourable to the appellant or any other person on whom the notice was served, the appellate authority shall -

- (a) notify the appellant and any persons on whom the appellant was required to serve a copy of the notice of appeal of the proposed modification;
- (b) permit any persons so notified to make representations in relation to the proposed modification; and
- (c) permit the appellant or any other person on whom the remediation notice was served to be heard if any such person so requests.

(2) Where, in accordance with paragraph (1) above, the appellant or any other person is heard, the enforcing authority shall also be entitled to be heard.

Appeals to the High Court

13. An appeal against any decision of a magistrates' court in pursuance of an appeal under section 78L(1) shall lie to the High Court at the instance of any party to the proceedings in which the decision was given (including any person who exercised his entitlement under regulation 8(4)(b) to be heard at the hearing of the complaint).

Atal hysbysiad adfer

14.-(1) Pan wneir apêl yn briodol yn erbyn hysbysiad adfer, ni fydd unrhyw effaith i'r hysbysiad tra disgwylir am y penderfyniad terfynol ar yr apêl neu nes y rhoddir y gorau iddi.

(2) Mae apêl yn erbyn hysbysiad adfer yn cael ei gwneud yn briodol at ddibenion y rheoliad hwn os yw'n cael ei gwneud o fewn y cyfnod a bennir yn adran 78L(1)(a) ac os cydymffurfwyd â gofynion rheoliad 8(2) a (3) (yn achos apêl i lys ynadon) neu reoliad 9(1) a (2) (yn achos apêl i Gynulliad Cenedlaethol Cymru).

Cofrestrau

15.-(1) Bydd Atodlen 3 i'r Rheoliadau hyn yn cael effaith ar gyfer rhagnodi -

- (a) manylion y materion, neu'r manylion mewn perthynas â'r materion, sydd i'w cynnwys mewn cofrestr a gedwir o dan yr adran honno, at ddibenion is-adran (1) o adran 78R; a
- (b) materion eraill y bydd y gofrestr honno yn cynnwys manylion a ragnodir mewn perthynas â hwy yn unol ag adran 78R(1)(l).

(2) Rhagnodir y disgrifiadau canlynol o wybodaeth at ddibenion adran 78R(2) fel gwybodaeth sydd i'w chynnwys mewn hysbysiadau at ddibenion adran 78R(1)(h) a (j) -

- (a) lleoliad a hyd a lled y tir yn ddigon manwl i ganiatáu dod o hyd iddo;
- (b) enw a chyfeiriad y person yr honnir ei fod wedi gwneud pob un o'r pethau o ran gwaith adfer;
- (c) disgrifiad o unrhyw beth yr honnir ei fod wedi'i wneud o ran gwaith adfer; ac
- (ch) y cyfnod yr honnwyd bod popeth o'r fath wedi'i wneud ynddo.

(3) Rhagnodir y lleoedd canlynol at ddibenion is-adran (8) o adran 78R fel lleoedd y bydd unrhyw gofrestrau neu gyfleusterau ar gyfer cael copïau ohonynt ar gael neu wedi'u darparu i'r cyhoedd yn unol â pharagraff (a) neu (b) o'r is-adran honno -

- (a) os yr awdurdod lleol yw'r awdurdod gorfodi, ei brif swyddfa; a
- (b) os Asiantaeth yr Amgylchedd yw'r awdurdod gorfodi, ei swyddfa ar gyfer yr ardal y mae'r tir halogedig o dan sylw wedi'i leoli ynddi.

Suspension of a remediation notice

14.-(1) Where an appeal is duly made against a remediation notice, the notice shall be of no effect pending the final determination or abandonment of the appeal.

(2) An appeal against a remediation notice is duly made for the purposes of this regulation if it is made within the period specified in section 78L(1)(a) and the requirements of regulation 8(2) and (3) (in the case of an appeal to a magistrates' court) or regulation 9(1) and (2) (in the case of an appeal to the National Assembly for Wales) have been complied with.

Registers

15.-(1) Schedule 3 to these Regulations shall have effect for prescribing -

- (a) for the purposes of subsection (1) of section 78R, the particulars of or relating to the matters to be contained in a register maintained under that section; and
- (b) other matters in respect of which such a register shall contain prescribed particulars pursuant to section 78R(1)(l).

(2) The following descriptions of information are prescribed for the purposes of section 78R(2) as information to be contained in notifications for the purposes of section 78R(1)(h) and (j) -

- (a) the location and extent of the land sufficient to enable it to be identified;
- (b) the name and address of the person who it is claimed has done each of the things by way of remediation;
- (c) a description of any thing which it is claimed has been done by way of remediation; and
- (d) the period within which it is claimed each such thing was done.

(3) The following places are prescribed for the purposes of subsection (8) of section 78R as places at which any registers or facilities for obtaining copies shall be available or afforded to the public in pursuance of paragraph (a) or (b) of that subsection -

- (a) where the enforcing authority is the local authority, its principal office; and
- (b) where the enforcing authority is the Environment Agency, its office for the area in which the contaminated land in question is situated.

(a) Y cyfnod a bennir yn adran 78L yw'r cyfnod o 21 diwrnod yn dechrau gyda'r diwrnod y cyflwynwyd yr hysbysiad arno.

(a) The period specified in section 78L(1) is the period of 21 days beginning with the day on which the notice is served.

Llofnodwyd ar ran Cynulliad Cenedlaethol Cymru o dan adran 66(1) o Ddeddf Llywodraeth Cymru 1998(a).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(a).

12 Mehefin 2001

12th June 2001

D. Elis-Thomas

Llywydd Cynulliad Cenedlaethol Cymru

The Presiding Officer of the National Assembly for Wales

SAFLEOEDD ARBENNIG

1. Rhestrir y teuluoedd a'r grwpiau canlynol o sylweddau at ddibenion rheoliad 3(c)(i) -

Cyfansoddion organohalogen a sylweddau a all ffurfio cyfansoddion o'r fath yn yr amgylchedd dyfrol;

Cyfansoddion organoffosfforws;

Cyfansoddion organotun;

Sylweddau â phriodweddau carsinogenig, mwtagenig neu teratogenig yn yr amgylchedd dyfrol neu drwyddo;

mercwri a'i gyfansoddion;

cadmiwm a'i gyfansoddion;

olew mwynol a hydrocarbonau eraill;syaniadau.

2. Rhestrir y ffurfiadau creigiau canlynol at ddibenion rheoliad 3(c)(ii) -

Crag Norwich Pleistosenaid;

Sialc Cretasaidd Uchaf;

Tywodfeini Cretasaidd Isaf;

Calchfeini Cwrelaidd Jurasig Uchaf;

Calchfeini Jurasig Canol;

Tywodydd Cotteswold Jurasig Isaf;

Grŵp Tywodfeini Sherwood Permo-Driasig;

Calchfaen Magnesaidd Permaidd Uchaf;

Tywodfaen Penrith Permaidd Isaf;

Tywodfaen Collyhurst Permaidd Isaf;

Brecias, Clymfeini a Thywodfeini Gwaelodol Permaidd Isaf;

Calchfeini Carbonifferaidd Isaf.

IAWNDAL AM HAWLIAU MYNEDIAD ETC.

Dehongli

1. Yn yr Atodlen hon -

ystyr "buddiant perthnasol" ("*relevant interest*") yw buddiant mewn tir y rhoddyd hawliau allan ohono yn unol ag adran 78G(2);

ystyr "Deddf 1961" ("*the 1961 Act*") yw Deddf Iawndal Tir 1961(a);

ystyr "grantwr" ("*grantor*") yw person sydd wedi rhoi, neu wedi ymuno i roi, unrhyw hawliau yn unol ag adran 78G(2).

(a) 1961 p.33.

SPECIAL SITES

1. The following families and groups of substances are listed for the purposes of regulation 3(c)(i) -

organohalogen compounds and substances which may form such compounds in the aquatic environment;

organophosphorus compounds;

organotin compounds;

substances which possess carcinogenic, mutagenic or teratogenic properties in or via the aquatic environment;

mercury and its compounds;

cadmium and its compounds;

mineral oil and other hydrocarbons;

cyanides.

2. The following formations of rocks are listed for the purposes of regulation 3(c)(ii) -

Pleistocene Norwich Crag;

Upper Cretaceous Chalk;

Lower Cretaceous Sandstones;

Upper Jurassic Corallian;

Middle Jurassic Limestones;

Lower Jurassic Cotteswold Sands;

Permo-Triassic Sherwood Sandstone Group;

Upper Permian Magnesian Limestone;

Lower Permian Penrith Sandstone;

Lower Permian Collyhurst Sandstone;

Lower Permian Basal Breccias,

Conglomerates and Sandstones;

Lower Carboniferous Limestones.

COMPENSATION FOR RIGHTS OF ENTRY ETC.

Interpretation

1. In this Schedule -

"the 1961 Act" ("*Deddf 1961*") means the Land Compensation Act 1961(a);

"grantor" ("*grantwr*") means a person who has granted, or joined in the granting of, any rights pursuant to section 78G(2);

"relevant interest" ("*buddiant perthnasol*") means an interest in land out of which rights have been granted pursuant to section 78G(2).

(a) 1961 c.33.

Y cyfnod ar gyfer gwneud cais

2. Rhaid gwneud cais am iawndal o fewn y cyfnod sy'n dechrau ar ddyddiad rhoi'r hawliau yr hawlir iawndal mewn perthynas â hwy ac sy'n dod i ben ar ba un bynnag yw'r diweddaraf o'r dyddiadau canlynol -

- (a) deuddeng mis ar ôl dyddiad rhoi'r hawliau hynny;
- (b) pan wneir apêl yn erbyn hysbysiad adfer y rhoddyd yr hawliau o dan sylw mewn perthynas ag ef, ac nad oes effaith i'r hysbysiad yn rhinwedd rheoliad 14, deuddeng mis ar ôl dyddiad penderfyniad terfynol neu ar ôl rhoi'r gorau iddi; neu
- (c) chwe mis ar ôl y dyddiad yr arferwyd yr hawliau gyntaf.

Dull gwneud cais

3.-(1) Rhaid gwneud cais yn ysgrifenedig a'i gyflwyno neu ei anfon drwy bost rhag-daledig i gyfeiriad gohebu hysbys diwethaf y person priodol y rhoddyd yr hawliau iddo.

- (2) Rhaid i'r cais gynnwys, neu rhaid anfon gyda'r cais -
 - (a) copi o'r grant hawliau y mae'r grantwr yn gwneud cais am iawndal ar ei gyfer, ac o unrhyw blaniau sydd ynghlwm wrth y grant hwnnw;
 - (b) disgrifiad o union natur unrhyw fuddiant mewn tir y gwneir cais am iawndal ar ei gyfer; ac
 - (c) datganiad o swm yr iawndal y gwneir cais amdano, gan wahaniaethu rhwng y symiau y gwneir cais amdanynt o dan bob un o is-baragraffau (a) i (d) o baragraff 4 isod, a chan ddangos sut y cyfrifwyd y swm y gwneir cais amdano o dan bob is-baragraff.

Colled a difrod y mae iawndal yn daladwy ar eu cyfer

4. Yn ddarostyngedig i baragraff 5(3) a 5(b) isod, mae iawndal yn daladwy o dan adran 78G am gollod a difrod o'r disgrifiadau canlynol -

- (a) dibrisiant yng ngwerth unrhyw fuddiant perthnasol y mae gan y grantwr hawl i'w gael ac sy'n deillio o'r grant hawliau;
- (b) dibrisiant yng ngwerth unrhyw fuddiant arall mewn tir y mae gan y grantwr hawl i'w gael ac sy'n deillio o arfer yr hawliau;
- (c) colled neu ddifrod, mewn perthynas ag unrhyw fuddiant perthnasol y mae gan y grantwr hawl iddo, ac -
 - (i) y gellir ei briodoli i'r grant hawliau neu i arfer yr hawliau hynny;

Period for making an application

2. An application for compensation shall be made within the period beginning with the date of the grant of the rights in respect of which compensation is claimed and ending on whichever is the latest of the following dates -

- (a) twelve months after the date of the grant of those rights;
- (b) where an appeal is made against a remediation notice in respect of which the rights in question have been granted, and the notice is of no effect by virtue of regulation 14, twelve months after the date of the final determination or abandonment of the appeal; or
- (c) six months after the date on which the rights were first exercised.

Manner of making an application

3.-(1) An application shall be made in writing and delivered at or sent by pre-paid post to the last known address for correspondence of the appropriate person to whom the rights were granted.

- (2) The application shall contain, or be accompanied by -
 - (a) a copy of the grant of rights in respect of which the grantor is applying for compensation, and of any plans attached to that grant;
 - (b) a description of the exact nature of any interest in land in respect of which compensation is applied for; and
 - (c) a statement of the amount of compensation applied for, distinguishing the amounts applied for under each of sub-paragraphs (a) to (e) of paragraph 4 below, and showing how the amount applied for under each sub-paragraph has been calculated.

Loss and damage for which compensation payable

4. Subject to paragraph 5(3) and (5)(b) below, compensation is payable under section 78G for loss and damage of the following descriptions -

- (a) depreciation in the value of any relevant interest to which the grantor is entitled which results from the grant of the rights;
- (b) depreciation in the value of any other interest in land to which the grantor is entitled which results from the exercise of the rights;
- (c) loss or damage, in relation to any relevant interest to which the grantor is entitled, which -
 - (i) is attributable to the grant of the rights or the exercise of them;

- (ii) nad yw'n cynnwys dibrisiant yng ngwerth y buddiant hwnnw; a
- (iii) sy'n golled neu'n ddifrod y buasai ganddo hawl i gael iawndal amdanynt ar ffurf iawndal am aflonyddwch, pe buasai'r buddiant hwnnw wedi'i gaffael yn orfodol o dan Ddeddf Caffael Tir 1981(a) yn unol â hysbysiad i drafod telerau a gyflwynid ar y dyddiad y rhoddwyd yr hawliau;
- (ch) difrod i unrhyw fuddiant mewn tir y mae gan y grantwr hawl iddo ac nad yw'n fuddiant perthnasol, ac sy'n deillio o roi'r hawliau neu eu harfer, neu effaith niweidiol ar y buddiant hwnnw; a
- (d) colled mewn perthynas â gwaith a gyflawnwyd gan neu ar ran y grantwr ac sy'n cael ei wneud yn ofer drwy roi'r hawliau neu drwy eu harfer.

- (ii) does not consist of depreciation in the value of that interest; and
- (iii) is loss or damage for which he would have been entitled to compensation by way of compensation for disturbance, if that interest had been acquired compulsorily under the Acquisition of Land Act 1981(a) in pursuance of a notice to treat served on the date on which the rights were granted;
- (d) damage to, or injurious affection of, any interest in land to which the grantor is entitled which is not a relevant interest, and which results from the grant of the rights or the exercise of them; and
- (e) loss in respect of work carried out by or on behalf of the grantor which is rendered abortive by the grant of the rights or the exercise of them.

Y sail ar gyfer asesu'r iawndal

5.-(1) Bydd y darpariaethau canlynol yn cael effaith at ddibenion asesu'r swm sydd i'w dalu o ran iawndal o dan adran 78G.

(2) Bydd y rheolau a nodir yn adran 5 o Ddeddf 1961 (rheolau ar gyfer asesu iawndal) yn cael effaith, i'r graddau y maent yn gymwysadwy ac yn ddarostyngedig i unrhyw addasiadau angenrheidiol, at ddibenion asesu unrhyw iawndal o'r fath yn yr un modd ag y maent yn effeithiol at ddibenion asesu iawndal ar gyfer caffael buddiant mewn tir yn orfodol.

(3) Rhaid peidio â rhoi unrhyw ystyriaeth i unrhyw welliant yng ngwerth unrhyw fuddiant mewn tir, oherwydd unrhyw adeilad a godir, unrhyw waith a wneir neu unrhyw welliant neu newid a wneir ar unrhyw dir y mae'r grantwr, neu yr oedd adeg y gwaith codi neu adeg y gwneud, yn ymwneud ag ef yn uniongyrchol neu'n anuniongyrchol, os yw'r Tribiwnlys Tiroedd wedi'i fodloni nad oedd codi'r adeilad, gwneud y gwaith, gwneud y gwelliant neu'r newid yn rhesymol angenrheidiol a'i fod wedi'i wneud gyda golwg ar gael iawndal neu fwy o iawndal.

(4) Wrth gyfrifo swm unrhyw golled o dan baragraff 4(d) uchod, cymerir gwariant a dynnwyd wrth baratoi planiau neu a dynnwyd oherwydd materion paratoi tebyg eraill i ystyriaeth.

(5) Pan fydd y buddiant y mae iawndal i'w asesu mewn perthynas ag ef yn ddarostyngedig i forgais -

- (a) rhaid i'r iawndal gael ei asesu fel pe na bai'r buddiant yn ddarostyngedig i'r morgais; a
- (b) ni fydd unrhyw iawndal yn daladwy mewn perthynas â buddiant y morgeisai (yn wahanol i'r buddiant sy'n ddarostyngedig i'r morgais).

Basis on which compensation assessed

5.-(1) The following provisions shall have effect for the purpose of assessing the amount to be paid by way of compensation under section 78G.

(2) The rules set out in section 5 of the 1961 Act (rules for assessing compensation) shall, so far as applicable and subject to any necessary modifications, have effect for the purpose of assessing any such compensation as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(3) No account shall be taken of any enhancement of the value of any interest in land, by reason of any building erected, work done or improvement or alteration made on any land in which the grantor is, or was at the time of erection, doing or making, directly or indirectly concerned, if the Lands Tribunal is satisfied that the erection of the building, the doing of the work, the making of the improvement or the alteration was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(4) In calculating the amount of any loss under paragraph 4(e) above, expenditure incurred in the preparation of plans or on other similar preparatory matters shall be taken into account.

(5) Where the interest in respect of which compensation is to be assessed is subject to a mortgage -

- (a) the compensation shall be assessed as if the interest were not subject to the mortgage; and
- (b) no compensation shall be payable in respect of the interest of the mortgagee (as distinct from the interest which is subject to the mortgage).

(a) 1981 c.67.

(a) 1981 c.67.

(6) Rhaid i iawndal o dan adran 78G gynnwys swm sy'n hafal i gostau prisio rhesymol y grantwr a'i gostau cyfreithiol rhesymol.

Talu iawndal a phenderfynu dadleuon

6.-(1) Telir iawndal sy'n daladwy o dan adran 78G mewn perthynas â buddiant sy'n ddarostyngedig i forgais i'r morgeisai neu, os oes mwy nag un morgeisai, i'r morgeisai cyntaf ac yn y naill achos neu'r llall, caiff ei gymhwyso ganddo fel petai'n enillion ar werthiant.

(2) Bydd symiau iawndal a benderfynir o dan yr Atodlen hon yn daladwy -

- (a) pan fydd y person priodol a'r grantwr neu'r morgeisai yn cytuno bod taliad unigol i'w wneud ar ddyddiad penodedig, ar y dyddiad hwnnw;
- (b) pan fydd y person priodol a'r grantwr neu'r morgeisai yn cytuno bod taliad i'w wneud mewn rhandaliadau ar ddyddiadau gwahanol, ar y dyddiad y cytunir arno o ran pob rhandaliad; ac
- (c) ym mhob achos arall, yn ddarostyngedig i unrhyw gyfarwyddyd gan y Tribiwnlys Tiroedd neu'r llys, cyn gynted ag y bo'n rhesymol ymarferol ar ôl i swm yr iawndal gael ei benderfynu'n derfynol.

(3) Rhaid cyfeirio unrhyw gwestiwn ynghylch cymhwyso paragraff 5(3) uchod neu iawndal sy'n destun dadl at y Tribiwnlys Tiroedd er mwyn iddynt hwy benderfynu arno.

(4) Mewn perthynas â phenderfynu ar unrhyw gwestiwn o'r fath, bydd adrannau 2 a 4 o Ddeddf 1961 (y weithdrefn ynglyn â chyfeirio at y Tribiwnlys Tiroedd a'r costau) yn gymwys -

- (a) fel petai'r cyfeiriad yn adran 2(1) o'r Ddeddf honno at adran 1 o'r Ddeddf honno yn gyfeiriad at is-baragraff (3) o'r paragraff hwn; a
- (b) fel petai'r cyfeiriadau yn adran 4 o'r Ddeddf honno at yr awdurdod caffael yn gyfeiriadau at y person priodol.

(6) Compensation under section 78G shall include an amount equal to the grantor's reasonable valuation and legal expenses.

Payment of compensation and determination of disputes

6.-(1) Compensation payable under section 78G in respect of an interest which is subject to a mortgage shall be paid to the mortgagee or, if there is more than one mortgagee, to the first mortgagee and shall, in either case, be applied by him as if it were proceeds of sale.

(2) Amounts of compensation determined under this Schedule shall be payable -

- (a) where the appropriate person and the grantor or mortgagee agree that a single payment is to be made on a specified date, on that date;
- (b) where the appropriate person and the grantor or mortgagee agree that payment is to be made in instalments at different dates, on the date agreed as regards each instalment; and
- (c) in any other case, subject to any direction of the Lands Tribunal or the court, as soon as reasonably practicable after the amount of the compensation has been finally determined.

(3) Any question of the application of paragraph 5(3) above or of disputed compensation shall be referred to and determined by the Lands Tribunal.

(4) In relation to the determination of any such question, sections 2 and 4 of the 1961 Act (procedure on reference to the Lands Tribunal and costs) shall apply as if -

- (a) the reference in section 2(1) of that Act to section 1 of that Act were a reference to subparagraph (3) of this paragraph; and
- (b) references in section 4 of that Act to the acquiring authority were references to the appropriate person.

COFRESTRAU

Rhaid i gofrestr a gedwir gan awdurdod gorfodi o dan adran 78R gynnwys manylion llawn y materion canlynol -

Hysbysiadau adfer

1. Mewn perthynas â hysbysiad adfer a gyflwynir gan yr awdurdod -

- (a) enw a chyfeiriad y person y cyflwynir yr hysbysiad iddo;
- (b) lleoliad a hyd a lled y tir halogedig y mae'r hysbysiad yn ymwneud ag ef (y cyfeirir ato yn y paragraff hwn fel y "tir halogedig o dan sylw"), yn ddigon manwl i ganiatáu dod o hyd iddo naill ai drwy gyfeirio at blun neu fel arall;
- (c) y niwed neu'r llygredd sylweddol i ddyfroedd a reolir y mae'r tir halogedig o dan sylw yn dir halogedig o'i herwydd;
- (ch) y sylweddau y mae'r tir halogedig o dan sylw yn dir halogedig o'u herwydd ac, os oes unrhyw un o'r sylweddau wedi dianc o dir arall, lleoliad y tir arall hwnnw;
- (d) defnydd cyfredol y tir halogedig o dan sylw;
- (dd) yr hyn y mae pob person priodol i'w wneud o ran gwaith adfer a'r cyfnodau y mae'n ofynnol iddynt wneud pob un o'r pethau ynddynt; ac
- (e) dyddiad yr hysbysiad.

Apelau yn erbyn hysbysiadau adfer

2. Unrhyw apêl yn erbyn hysbysiad adfer a gyflwynir gan yr awdurdod.

3. Unrhyw benderfyniad ar apêl o'r fath.

Datganiadau adfer

4. Unrhyw ddatganiad adfer a baratoir ac a gyhoeddir gan yr awdurdod gorfodi o dan adran 78H(6).

5. Mewn perthynas ag unrhyw ddatganiad adfer o'r fath -

- (a) lleoliad a hyd a lled y tir halogedig o dan sylw, yn ddigon manwl i ganiatáu dod o hyd iddo naill ai drwy gyfeirio at blun neu fel arall; a
- (b) y materion y cyfeirir atynt yn is-baragraffau (c), (ch) a (d) o baragraff 1 uchod.

REGISTERS

A register maintained by an enforcing authority under section 78R shall contain full particulars of the following matters -

Remediation notices

1. In relation to a remediation notice served by the authority -

- (a) the name and address of the person on whom the notice is served;
- (b) the location and extent of the contaminated land to which the notice relates (in this paragraph referred to as the "contaminated land in question"), sufficient to enable it to be identified whether by reference to a plan or otherwise;
- (c) the significant harm or pollution of controlled waters by reason of which the contaminated land in question is contaminated land;
- (d) the substances by reason of which the contaminated land in question is contaminated land and, if any of the substances have escaped from other land, the location of that other land;
- (e) the current use of the contaminated land in question;
- (f) what each appropriate person is to do by way of remediation and the periods within which they are required to do each of the things; and
- (g) the date of the notice.

Appeals against remediation notices

2. Any appeal against a remediation notice served by the authority.

3. Any decision on such an appeal.

Remediation declarations

4. Any remediation declaration prepared and published by the enforcing authority under section 78H(6).

5. In relation to any such remediation declaration -

- (a) the location and extent of the contaminated land in question, sufficient to enable it to be identified whether by reference to a plan or otherwise; and
- (b) the matters referred to in sub-paragraphs (c), (d) and (e) of paragraph 1 above.

Datganiadau adfer

6. Unrhyw ddatganiad adfer a baratoir ac a gyhoeddir gan y person cyfrifol o dan adran 78H(7) neu gan yr awdurdod gorfodi o dan adran 78H(9).

7. Mewn perthynas ag unrhyw ddatganiad adfer o'r fath -

- (a) lleoliad a hyd a lled y tir halogedig o dan sylw, yn ddigon manwl i ganiatáu dod o hyd iddo naill ai drwy gyfeirio at blân neu fel arall; a
- (b) y materion y cyfeirir atynt yn is-baragraffau (c), (ch) a (d) o baragraff 1 uchod.

Apelau yn erbyn hysbysiadau codi tâl

8. Yn achos awdurdod gorfodi, unrhyw apêl o dan adran 78P(8) yn erbyn hysbysiad codi tâl a gyflwynwyd gan yr awdurdod.

9. Unrhyw benderfyniad ar apêl o'r fath.

Dynodi safleoedd arbennig

10. Yn achos Asiantaeth yr Amgylchedd, mewn perthynas ag unrhyw dir y mae'n awdurdod gorfodi mewn perthynas ag ef, ac yn achos awdurdod lleol, mewn perthynas ag unrhyw dir yn ei ardal, -

- (a) unrhyw hysbysiad a roddwyd gan awdurdod lleol o dan is-adran (1)(b) neu (5)(a) o adran 78C, neu gan Gynulliad Cenedlaethol Cymru o dan adran 78D(4)(b), sy'n cael effaith o ran dynodi unrhyw dir yn safle arbennig, yn rhinwedd adran 78C(7) neu adran 78D(6);
- (b) y darpariaethau yn rheoliad 2 neu 3 y mae'n ofynnol dynodi'r tir yn safle arbennig o'u herwydd;
- (c) unrhyw hysbysiad a roddwyd gan Asiantaeth yr Amgylchedd o dan adran 78Q(1)(a) o'i phenderfyniad i fabwysiadu hysbysiad adfer; ac
- (ch) unrhyw hysbysiad a roddwyd gan yr awdurdod gorfodi neu iddo o dan adran 78Q(4) yn terfynu dynodiad unrhyw dir yn safle arbennig.

Hysbysu adferiad honedig

11. Unrhyw hysbysiad a roddir i'r awdurdod at ddibenion adran 78R(1)(h) neu(j).

Collfarnau am dramgwyddau o dan adran 78M

12. Unrhyw gollfarniad a gafodd person am unrhyw dramgwyddau o dan adran 78M mewn perthynas â hysbysiad adfer a gyflwynwyd gan yr awdurdod, gan gynnwys enw'r tramgwyddwr, dyddiad y gollfarn, y gosb a osodwyd ac enw'r Llys.

Remediation statements

6. Any remediation statement prepared and published by the responsible person under section 78H(7) or by the enforcing authority under section 78H(9).

7. In relation to any such remediation statement -

- (a) the location and extent of the contaminated land in question, sufficient to enable it to be identified whether by reference to a plan or otherwise; and
- (b) the matters referred to in sub-paragraphs (c), (d) and (e) of paragraph 1 above.

Appeals against charging notices

8. In the case of an enforcing authority, any appeal under section 78P(8) against a charging notice served by the authority.

9. Any decision on such an appeal.

Designation of special sites

10. In the case of the Environment Agency, as respects any land in relation to which it is the enforcing authority, and in the case of a local authority, as respects any land in its area, -

- (a) any notice given by a local authority under subsection (1)(b) or (5)(a) of section 78C, or by the National Assembly for Wales under section 78D(4)(b), which, by virtue of section 78C(7) or section 78D(6) respectively, has effect as the designation of any land as a special site;
- (b) the provisions of regulation 2 or 3 by virtue of which the land is required to be designated as a special site;
- (c) any notice given by the Environment Agency under section 78Q(1)(a) of its decision to adopt a remediation notice; and
- (d) any notice given by or to the enforcing authority under section 78Q(4) terminating the designation of any land as a special site.

Notification of claimed remediation

11. Any notification given to the authority for the purposes of section 78R(1)(h) or (j).

Convictions for offences under section 78M

12. Any conviction of a person for any offence under section 78M in relation to a remediation notice served by the authority, including the name of the offender, the date of conviction, the penalty imposed and the name of the Court.

Canllawiau a roddir o dan adran 78V(1)

13. Yn achos Asiantaeth yr Amgylchedd, dyddiad unrhyw ganllawiau a gyhoeddwyd ganddi o dan is-adran (1) o adran 78V ac, yn achos awdurdod lleol, dyddiad unrhyw ganllawiau a roddwyd iddo gan yr Asiantaeth o dan yr is-adran honno.

Rheolaethau amgylcheddol eraill

14. Pan fydd yr awdurdod yn cael ei wahardd yn rhinwedd adran 78YB(1) rhag cyflwyno hysbysiad adfer -

- (a) lleoliad a hyd a lled y tir halogedig o dan sylw, yn ddigon manwl i ganiatáu dod o hyd iddo naill ai drwy gyfeirio at blân neu fel arall;
- (b) y materion y cyfeirir atynt yn is-baragraffau (c), (ch) a (d) o baragraff 1 uchod; ac
- (c) unrhyw gamau y mae'r awdurdod yn gwybod amdanynt, ac a gyflawnwyd o dan adran 27, tuag at adfer unrhyw niwed neu lygredd sylweddol i ddyfroedd a reolir y mae'r tir o dan sylw yn dir halogedig o'u herwydd.

15. Pan fydd yr awdurdod yn cael ei wahardd yn rhinwedd adran 78YB(3) rhag cyflwyno hysbysiad adfer mewn perthynas â thir sy'n dir halogedig oherwydd gollwng gwastraff a reolir neu unrhyw ganlyniadau i ollwng y gwastraff hwnnw -

- (a) lleoliad a hyd a lled y tir halogedig o dan sylw, yn ddigon manwl i ganiatáu dod o hyd iddo naill ai drwy gyfeirio at blân neu fel arall;
- (b) y materion y cyfeirir atynt yn is-baragraffau (c), (ch) a (d) o baragraff 1 uchod; ac
- (c) unrhyw gamau y mae'r awdurdod yn gwybod amdanynt, ac a gyflawnwyd o dan adran 59, mewn perthynas â'r gwastraff hwnnw neu â chanlyniadau ei ollwng, gan gynnwys mewn achos lle cymerodd awdurdod casglu gwastraff (o fewn ystyr adran 30(3)) y camau hynny neu ei gwneud yn ofynnol i'r camau gael eu cymryd, enw'r awdurdod hwnnw.

16. Pan fydd yr awdurdod, o ganlyniad i gydsyniad a roddwyd o dan Bennod II o Ran III o Ddeddf Adnoddau Dŵr 1991 (troseddau llygru)(a), yn rhinwedd adran 78YB(4) yn cael ei wahardd rhag pennu mewn hysbysiad adfer unrhyw beth penodol o ran gwaith adfer y byddai wedi'i bennu fel arall mewn hysbysiad o'r fath, -

- (a) y cydsyniad;
- (b) lleoliad a hyd a lled y tir halogedig o dan sylw, yn ddigon manwl i ganiatáu dod o hyd iddo naill ai drwy gyfeirio at blân neu fel arall; ac
- (c) y materion y cyfeirir atynt yn is-baragraffau (c), (ch) a (d) o baragraff 1 uchod.

Guidance issued under section 78V(1)

13. In the case of the Environment Agency, the date of any guidance issued by it under subsection (1) of section 78V and, in the case of a local authority, the date of any guidance issued by the Agency to it under that subsection.

Other environmental controls

14. Where the authority is precluded by virtue of section 78YB(1) from serving a remediation notice -

- (a) the location and extent of the contaminated land in question, sufficient to enable it to be identified whether by reference to a plan or otherwise;
- (b) the matters referred to in sub-paragraphs (c), (d) and (e) of paragraph 1 above; and
- (c) any steps of which the authority has knowledge, carried out under section 27, towards remedying any significant harm or pollution of controlled waters by reason of which the land in question is contaminated land.

15. Where the authority is precluded by virtue of section 78YB(3) from serving a remediation notice in respect of land which is contaminated land by reason of the deposit of controlled waste or any consequences of its deposit -

- (a) the location and extent of the contaminated land in question, sufficient to enable it to be identified whether by reference to a plan or otherwise;
- (b) the matters referred to in sub-paragraphs (c), (d) and (e) of paragraph 1 above; and
- (c) any steps of which the authority has knowledge, carried out under section 59, in relation to that waste or the consequences of its deposit, including in a case where a waste collection authority (within the meaning of section 30(3)) took those steps or required the steps to be taken, the name of that authority.

16. Where, as a result of a consent given under Chapter II of Part III of the Water Resources Act 1991 (pollution offences)(a), the authority is precluded by virtue of section 78YB(4) from specifying in a remediation notice any particular thing by way of remediation which it would otherwise have specified in such a notice, -

- (a) the consent;
- (b) the location and extent of the contaminated land in question, sufficient to enable it to be identified whether by reference to a plan or otherwise; and
- (c) the matters referred to in sub-paragraphs (c), (d) and (e) of paragraph 1 above.

(a) 1991 p.57.

CYNULLIAD CENEDLAETHOL CYMRU

OFFERYNNAU STATUDOL

2001 Rhif 2197 (Cy.157)

**DIOGELU'R AMGYLCHEDD,
CYMRU**

**Rheoliadau Tir Halogedig (Cymru)
2001**

NATIONAL ASSEMBLY FOR WALES

STATUTORY INSTRUMENTS

2001 No. 2197 (W.157)

**ENVIRONMENTAL
PROTECTION, WALES**

**The Contaminated Land (Wales)
Regulations 2001**

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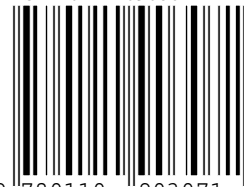
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