



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2012 Rhif 1819 (Cy. 228)

2012 No. 1819 (W. 228)

**DIOGELU'R ARFORDIR,
CYMRU**

**COAST PROTECTION,
WALES**

**DIOGELU'R AMGYLCHEDD,
CYMRU**

**ENVIRONMENTAL
PROTECTION, WALES**

**RHEOLI PERYGL
LLIFOGYDD, CYMRU**

**FLOOD RISK MANAGEMENT,
WALES**

Rheoliadau Dynodi Nodweddion
(Apelau) (Cymru)
2012

The Designation of Features
(Appeals) (Wales) Regulations
2012

NODYN ESBONIADOL

EXPLANATORY NOTE

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

(This note is not part of the Regulations)

O dan adran 30 o Ddeddf Rheoli Llifogydd a Dŵr 2010 (p.29) ("y Ddeddf") ac Atodlen 1 i'r Ddeddf honno, caiff Asiantaeth yr Amgylchedd, awdurdod lleol neu fwrdd draenio mewnol (yr "Awdurdod Dynodi") ddynodi adeileddau neu nodweddion amgylcheddol sy'n effeithio ar y risg o lifogydd neu erydu arfordirol, hyd yn oed os nad yw'r adeileddau neu nodweddion wedi eu cynllunio neu eu hadeiladu ar gyfer y diben hwnnw.

Under Section 30 of, and Schedule 1 to, the Flood and Water Management Act 2010 (c.29) ("the Act"), the Environment Agency, a local authority or an internal drainage board (the "Designating Authority") may designate structures or environmental features that affect a flood or coastal erosion risk, though they may not necessarily have been designed or constructed for that purpose.

Unwaith y bydd wedi ei dynodi, ni chaiff perchennog y nodwedd ddynodedig ei haddasu, ei thynnu ymaith na'i hamnewid heb ganiatâd. Mae paragraff 15 o Atodlen 1 i'r Ddeddf yn gwneud yn ofynnol bod Gweinidogion Cymru yn darparu hawl apelio ar gyfer y bobl yr effeithir arnynt pan ddefnyddir y pwerau dynodi hyn gan Awdurdod Dynodi.

Once designated, the owner of the designated feature cannot alter, remove or replace it without consent. Paragraph 15 of Schedule 1 to the Act requires the Welsh Ministers to provide the right of appeal for people affected by the use of these designation powers by a Designating Authority.

Mae'r Rheoliadau hyn yn darparu hawl apelio yn erbyn—

These Regulations provide a right of appeal against—

- (a) dynodiadau a hysbysiadau gorfodi o dan Atodlen 1 i'r Ddeddf; a
- (b) penderfyniadau cysylltiedig a wneir o dan baragraffau 6 a 9 o'r Atodlen honno.

- (a) designations and enforcement notices under Schedule 1 to the Act; and
- (b) related decisions made under paragraphs 6 and 9 of that Schedule.

Maent yn rhoi i Dribiwnlys yr Haen Gyntaf awdurdodaeth i ystyried apelau a wneir o dan y Rheoliadau hyn. Maent yn gwneud darpariaeth ar gyfer gweithdrefn ac ar gyfer pwerau Tribiwnlys yr Haen Gyntaf wrth iddo benderfynu'r apêl.

Mae apelau a wneir o dan y Rheoliadau hyn, a'r broses o ddwyn apêl yn cael eu llywodraethu hefyd gan Reolau Gweithdrefn y Tribiwnlysoedd (Tribiwnlys yr Haen Gyntaf) (Y Siambr Reoleiddio Gyffredinol) 2009 (O.S. 2009/1976).

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar wneud Aseidiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, paratowyd asesiad effaith rheoleiddiol o gostau a buddiannau tebygol cydymffurfio â'r Rheoliadau hyn. Gellir cael copi ohono gan Lywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

They confer jurisdiction on the First-tier Tribunal to consider appeals made under these Regulations. They make provision for procedure and for the powers of the First-tier tribunal in determining the appeal.

Appeals under these Regulations and the process for bringing an appeal are also governed by the Tribunal Procedure (First-tier Tribunal)(General Regulatory Chamber) Rules 2009 (S.I. 2009/1976).

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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Gwnaed 10 Gorffennaf 2012
Yn dod i rym yn unol â rheoliad 1(1)

Made 10 July 2012
*Coming into force in accordance with
regulation 1(1)*

Mae Gweinidogion Cymru, mewn perthynas â dynodi adeileddau neu nodweddion yng Nghymru a chan arfer y pwerau a roddir gan adrannau 30 a 48(2) o Ddeddf Rheoli Llifogydd a Dŵr 2010(1) a pharagraff 15 o Atodlen 1 i'r Ddeddf honno, yn gwneud y Rheoliadau canlynol.

The Welsh Ministers, in relation to designations of structures or features in Wales, in exercise of the powers conferred by sections 30 and 48(2) of, and paragraph 15 of Schedule 1 to, the Flood and Water Management Act 2010(1), make the following Regulations.

Mae drafft o'r Rheoliadau hyn wedi ei gymeradwyo drwy benderfyniad gan Gynulliad Cenedlaethol Cymru yn unol â pharagraff 15(5) o Atodlen 1 i'r Ddeddf honno.

A draft of these Regulations has been approved by the National Assembly for Wales pursuant to paragraph 15(5) of Schedule 1 to that Act.

Ymgynghorwyd â'r Cyngor Cyfiawnder Gweinyddol a Thribiwnlysoedd, ac y mae'r Cyngor hwnnw wedi ymgynghori â Phwyllgor Cymreig y Cyngor Cyfiawnder Gweinyddol a Thribiwnlysoedd yn unol ag adran 44 o Ddeddf y Tribiwnlysoedd, Llysoedd a Gorfodaeth 2007(2) a pharagraff 24 o Atodlen 7 iddi.

The Administrative Justice and Tribunals Council has been consulted and that Council has consulted the Welsh Committee of the Administrative Justice and Tribunals Council in accordance with section 44 of, and paragraph 24 of Schedule 7 to, the Tribunals, Courts and Enforcement Act 2007(2).

(1) 2010 p.29. Mae paragraff 15 o Atodlen 1 i Ddeddf Rheoli Llifogydd a Dŵr 2010 yn rhoi pwerau i "the Minister", a diffinnir "the Minister" at ddibenion yr Atodlen honno ym mharagraff 17 o Atodlen 1 i'r Ddeddf honno.

(1) 2010 c.29. Paragraph 15 of Schedule 1 to the Flood and Water Management Act 2010 confers powers on "the Minister", and paragraph 17 of Schedule 1 to that Act defines "the Minister" for the purposes of that Schedule.

(2) 2007 p.15.

(2) 2007 c.15.

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Dynodi Nodweddion (Apelau) (Cymru) 2012, a deuant i rym ar y diwrnod sy'n dilyn y dyddiad y'u gwnaed.

(2) Mae'r Rheoliadau hyn yn gymwys o ran dynodi adeileddau neu nodweddion yng Nghymru.

Dehongli

2. Yn y Rheoliadau hyn—

ystyr "Atodlen 1" ("*Schedule 1*") yw Atodlen 1 i Ddeddf Rheoli Llifogydd a Dŵr 2010;

ystyr "hysbysiad gorfodi" ("*enforcement notice*") yw hysbysiad gorfodi a roddir o dan baragraff 11 o Atodlen 1; ac

ystyr "penderfyniad cydsynio" ("*consent decision*") yw penderfyniad mewn cysylltiad â chydsynio, ar gais o dan baragraff 6 o Atodlen 1.

Hawl i apelio yn erbyn dynodiad

3.—(1) Caiff perchennog(1) y rhoddir hysbysiad iddo o dan baragraff 8(1) o Atodlen 1 apelio ar unrhyw sail i Dribiwnlys yr Haen Gyntaf yn erbyn y dynodiad.

(2) Wrth benderfynu apêl o dan baragraff (1), rhaid i Dribiwnlys yr Haen Gyntaf naill ai gadarnhau neu ddiddymu'r dynodiad.

Hawl i apelio yn erbyn penderfyniad ar gais i addasu, tynnu ymaith neu amnewid

4.—(1) Caiff perchennog, y rhoddir iddo hysbysiad o benderfyniad cydsynio, apelio ar unrhyw sail i Dribiwnlys yr Haen Gyntaf yn erbyn y penderfyniad.

(2) At ddibenion paragraff (1), os nad yw awdurdod cyfrifol, ar ddiwedd diwrnod olaf y cyfnod hysbysu, wedi rhoi i berchennog hysbysiad o benderfyniad cydsynio a wnaed gan yr awdurdod, rhagdybir bod yr awdurdod cyfrifol wedi rhoi i'r perchennog, ar y diwrnod hwnnw, hysbysiad, sy'n gwrthod cydsynio.

(3) Wrth benderfynu apêl o dan baragraff (1), rhaid i Dribiwnlys yr Haen Gyntaf naill ai gadarnhau'r penderfyniad cydsynio neu ei amnewid.

(4) Yn y rheoliad hwn, ystyr "cyfnod hysbysu" ("*notice period*") yw'r cyfnod o 2 fis sy'n dechrau gyda'r diwrnod sy'n dilyn y diwrnod pan fo awdurdod cyfrifol yn cael cais am gydsyniad o dan baragraff 6 o Atodlen 1.

Title, commencement and application

1.—(1) The Title of these Regulations is the Designation of Features (Appeals) (Wales) Regulations 2012 and they come into force on the day after the date on which they were made.

(2) These Regulations apply in relation to designations of structures or features in Wales.

Interpretation

2. In these Regulations—

"consent decision" ("*penderfyniad cydsynio*") means a decision in connection with consent on an application under paragraph 6 of Schedule 1;

"enforcement notice" ("*hysbysiad gorfodi*") means an enforcement notice given under paragraph 11 of Schedule 1; and

"Schedule 1" ("*Atodlen 1*") means Schedule 1 to the Flood and Water Management Act 2010.

Right to appeal a designation

3.—(1) An owner(1) who is given a notice under paragraph 8(1) of Schedule 1 may appeal on any ground to the First-tier Tribunal against the designation.

(2) On deciding an appeal under paragraph (1), the First-tier Tribunal must confirm or cancel the designation.

Right to appeal a decision on an application for consent to alter, remove or replace

4.—(1) An owner who is given notice of a consent decision may appeal on any ground to the First-tier Tribunal against the decision.

(2) For the purpose of paragraph (1), a responsible authority which, at the end of the last day of the notice period, has not given an owner notice of a consent decision which it has made is taken to have given the owner notice on that day refusing to give consent.

(3) On deciding an appeal under paragraph (1), the First-tier Tribunal must confirm the consent decision or substitute it.

(4) In this regulation, "notice period" ("*cyfnod hysbysu*") means the period of 2 months beginning with the day following that on which a responsible authority receives an application for consent under paragraph 6 of Schedule 1.

(1) *Gweler* paragraff 3 o Atodlen 1 i Ddeddf Rheoli Llifogydd a Dŵr 2010 (p.29) ar gyfer ystyr "perchennog".

(1) *See* paragraph 3 of Schedule 1 to the Flood and Water Management Act 2010 (c.29) for the meaning of "owner".

Hawl i apelio yn erbyn gwrthodiad i ddiddymu dynodiad

5.—(1) Caiff perchennog, y rhoddir iddo hysbysiad bod cais wedi ei wrthod, apelio ar unrhyw sail i Dribiwnlys yr Haen Gyntaf yn erbyn y gwrthodiad i ddiddymu'r dynodiad.

(2) At ddibenion paragraff (1), os nad yw awdurdod cyfrifol, ar ddiwedd diwrnod olaf y cyfnod hysbysu, wedi rhoi i'r perchennog hysbysiad o benderfyniad a wnaed gan yr awdurdod ynglŷn â chais, rhagdybir bod yr awdurdod cyfrifol wedi rhoi i'r perchennog, ar y diwrnod hwnnw, hysbysiad sy'n gwrthod y cais.

(3) Wrth benderfynu apêl o dan baragraff (1), rhaid i Dribiwnlys yr Haen Gyntaf naill ai gadarnhau'r gwrthodiad neu ddiddymu'r dynodiad.

(4) Yn y rheoliad hwn—

ystyr "cais" ("*application*") yw cais o dan baragraff 9 o Atodlen 1; ac

ystyr "cyfnod hysbysu" ("*notice period*") yw'r cyfnod o 2 fis sy'n dechrau gyda'r diwrnod sy'n dilyn y diwrnod pan fo awdurdod cyfrifol yn cael cais.

Hawl i apelio yn erbyn hysbysiad gorfodi

6.—(1) Caiff person, y rhoddir iddo hysbysiad gorfodi, apelio ar unrhyw sail i Dribiwnlys yr Haen Gyntaf yn erbyn yr hysbysiad.

(2) Wrth benderfynu apêl o dan baragraff (1), rhaid i Dribiwnlys yr Haen Gyntaf naill ai—

- (a) cadarnhau'r hysbysiad gorfodi; neu
- (b) penderfynu bod yr hysbysiad yn peidio â chael effaith.

Right to appeal a refusal to cancel a designation

5.—(1) An owner who is given notice of refusal of an application may appeal on any ground to the First-tier Tribunal against the refusal to cancel the designation.

(2) For the purpose of paragraph (1), a responsible authority which, at the end of the last day of the notice period, has not given an owner notice of a decision which it has made on an application is taken to have given the owner notice on that day refusing the application.

(3) On deciding an appeal under paragraph (1), the First-tier Tribunal must confirm the refusal or cancel the designation.

(4) In this regulation—

"application" ("*cais*") means an application under paragraph 9 of Schedule 1; and

"notice period" ("*cyfnod hysbysu*") means the period of 2 months beginning with the day following that on which a responsible authority receives an application.

Right to appeal an enforcement notice

6.—(1) A person who is given an enforcement notice may appeal on any ground to the First-tier Tribunal against the notice.

(2) On deciding an appeal under paragraph (1), the First-tier Tribunal must—

- (a) confirm the enforcement notice; or
- (b) determine that the notice is to cease to have effect.

John Griffiths

Gweinidog yr Amgylchedd a Datblygu Cynaliadwy, un o Weinidogion Cymru

10 Gorffennaf 2012

Minister for Environment and Sustainable Development, one of the Welsh Ministers

10 July 2012

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