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OFFERYNNAU STATUDOL  
CYMRU

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WELSH STATUTORY  
INSTRUMENTS

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**2014 Rhif 2773 (Cy. 280)**

**2014 No. 2773 (W. 280)**

**CYNLLUNIO GWLAD A  
THREF, CYMRU**

**TOWN AND COUNTRY  
PLANNING, WALES**

Gorchymyn Cynllunio Gwlad a  
Thref (Pennu'r Weithdrefn)  
(Cymru) 2014

The Town and Country Planning  
(Determination of Procedure)  
(Wales) Order 2014

**NODYN ESBONIADOL**

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

Mae'r Gorchymyn hwn yn gwneud darpariaeth o ran Cymru sy'n cyfateb i adran 196 o Ddeddf Cynllunio 2008 (p. 29) ac Atodlen 10 iddi. Roedd adran 196 yn gwneud darpariaeth i'r Ysgrifennydd Gwladol bennu'r weithdrefn ar gyfer achosion penodol.

Mae erthygl 2 yn diwygio Deddf Cynllunio Gwlad a Thref 1990 (p. 8), Deddf Cynllunio (Adeiladau Rhedredig ac Ardaloedd Cadwraeth) 1990 (p. 9) a Deddf Cynllunio (Sylweddau Peryglus) 1990 (p. 10), ym mhob achos er mwyn ei gwneud yn ofynnol i Weinidogion Cymru bennu'r weithdrefn y dylid ei dilyn wrth ystyried achosion penodol o dan y Ddeddf honno.

Gall y weithdrefn fod yn ymchwiliad lleol, yn wrandawriad neu'n sylwadau ysgrifenedig, neu'n gyfuniad ohonynt, yn ôl yr hyn a ystyrir yn briodol gan Weinidogion Cymru. Rhaid i Weinidogion Cymru bennu'r weithdrefn o fewn y cyfnod rhagnodedig, hysbysu'r apelydd/ceisydd a'r awdurdod cynllunio lleol o ran pa weithdrefn sydd wedi ei dewis a chyhoeddi'r meini prawf sydd i'w cymhwyso wrth bennu'r weithdrefn i'w dilyn.

**EXPLANATORY NOTE**

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

This Order makes provision in relation to Wales which corresponds to section 196 of and Schedule 10 to the Planning Act 2008 (c. 29). Section 196 made provision for the Secretary of State to determine the procedure for certain proceedings.

Article 2 amends the Town and Country Planning Act 1990 (c. 8), the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9) and the Planning (Hazardous Substances) Act 1990 (c. 10), in each case so as to require the Welsh Ministers to determine the procedure by which certain proceedings under that Act should be considered.

The procedure can be a local inquiry, a hearing or written representations, or a combination of those three, as the Welsh Ministers consider appropriate. The Welsh Ministers must determine the procedure within the prescribed period, notify the appellant/applicant and local planning authority of which procedure has been selected and publish the criteria that are to be applied in determining the procedure to be followed.

Mae erthygl 3 a'r Atodlen yn gwneud diwygiadau sy'n ganlyniadol i'r darpariaethau newydd a fewnosodir gan erthygl 2. Mae'r diwygiadau ym mharagraffau 11(3) a 13(4)(b) o'r Atodlen yn cyfateb i baragraffau 12(3) a 14(7) o Atodlen 10 i Ddeddf Cynllunio 2008. Mae'r ddau baragraff hynny wedi eu cychwyn mewn perthynas ag apelau o dan adran 78 o Ddeddf Cynllunio Gwlad a Thref 1990 yn erbyn penderfyniad awdurdod cynllunio lleol ac o dan adran 174 o'r Ddeddf honno yn erbyn hysbysiad gorfodi.

Mae asesiad effaith wedi ei baratoi mewn perthynas â'r offeryn hwn. Gellir cael copïau oddi wrth yr Is-adran Gynllunio, Llywodraeth Cymru, Parc Cathays, Caerdydd, CF10 3NQ.

Article 3 and the Schedule make amendments which are consequential on the new provisions inserted by article 2. The amendments in paragraphs 11(3) and 13(4)(b) of the Schedule correspond to paragraphs 12(3) and 14(7) of Schedule 10 to the Planning Act 2008. Those two paragraphs have been commenced in relation to appeals under section 78 of the Town and Country Planning Act 1990 against a decision of a local planning authority and under section 174 of that Act against an enforcement notice.

An impact assessment has been prepared in relation to this instrument. Copies may be obtained from the Planning Division of the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

**2014 Rhif 2773 (Cy. 280)**

**2014 No. 2773 (W. 280)**

**CYNLLUNIO GWLAD A  
THREF, CYMRU**

**TOWN AND COUNTRY  
PLANNING, WALES**

**Gorchymyn Cynllunio Gwlad a  
Thref (Pennu'r Weithdrefn)  
(Cymru) 2014**

**The Town and Country Planning  
(Determination of Procedure)  
(Wales) Order 2014**

*Gwnaed* 14 Hydref 2014

*Made* 14 October 2014

*Yn dod i rym yn unol ag erthygl 1(2)*

*Coming into force in accordance with article  
1(2)*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd gan adran 203(1), (6) ac (8) o Ddeddf Cynllunio 2008(1), yn gwneud y Gorchymyn a ganlyn.

The Welsh Ministers, in exercise of the powers conferred by section 203(1), (6) and (8) of the Planning Act 2008(1), make the following Order.

Yn unol ag adran 203(9) o'r Ddeddf honno, gosodwyd drafft o'r Gorchymyn hwn gerbron Cynulliad Cenedlaethol Cymru a chymeradwywyd ef ganddo drwy benderfyniad.

In accordance with section 203(9) of that Act a draft of this Order was laid before and approved by a resolution of the National Assembly for Wales.

**Enwi a chychwyn**

**Title and commencement**

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Cynllunio Gwlad a Thref (Pennu'r Weithdrefn) (Cymru) 2014.

1.—(1) The title of this Order is The Town and Country Planning (Determination of Procedure) (Wales) Order 2014.

(2) Daw'r Gorchymyn hwn i rym 28 o ddiwrnodau wedi'r diwrnod y'i gwneir.

(2) This Order comes into force 28 days after the day on which it is made.

**Pennu'r weithdrefn**

**Determination of procedure**

2.—(1) Ar ôl adran 319A o Ddeddf Cynllunio Gwlad a Thref 1990(2) (y mae ei henw yn newid i "Determination of procedure for certain proceedings: England") mewnosoder—

2.—(1) After section 319A of the Town and Country Planning 1990 Act(2) (the title of which becomes "Determination of procedure for certain proceedings: England") insert—

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(1) 2008 p. 29.

(2) 1990 p. 8. Mewnosodwyd adran 319A gan adran 196(1) o Ddeddf 2008. Fe'i diwygiwyd gan Ddeddf Twf a Seilwaith 2013 (p. 27). Nid yw adran 196(1) wedi ei chychwyn yn llawn.

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(1) 2008 c. 29.

(2) 1990 c. 8. Section 319A was inserted by section 196(1) of the 2008 Act. It was amended by the Growth and Infrastructure Act 2013 (c. 27). Section 196(1) has not been fully commenced.

**“Determination of procedure for certain proceedings: Wales**

**319B.**—(1) The Welsh Ministers must make a determination as to the procedure by which proceedings to which this section applies are to be considered.

(2) A determination under subsection (1) must provide for the proceedings to be considered in such one or more of the following ways as appear to the Welsh Ministers to be appropriate—

- (a) at a local inquiry;
- (b) at a hearing;
- (c) on the basis of representations in writing.

(3) The Welsh Ministers must make a determination under subsection (1) in respect of proceedings to which this section applies before the end of the prescribed period.

(4) A determination under subsection (1) may be varied by a subsequent determination under that subsection at any time before the proceedings are determined.

(5) The Welsh Ministers must notify the appellant or applicant (as the case may be) and the local planning authority of any determination made under subsection (1).

(6) The Welsh Ministers must publish the criteria which are to be applied in making determinations under subsection (1).

(7) This section applies to—

- (a) an application referred to the Welsh Ministers under section 77;
- (b) an appeal to the Welsh Ministers under section 78;
- (c) an appeal to the Welsh Ministers under section 174;
- (d) an appeal to the Welsh Ministers under section 195; and
- (e) an appeal to the Welsh Ministers under section 208.

(8) But this section does not apply to proceedings if they are referred to a Planning Inquiry Commission under section 101; and on proceedings being so referred, any determination made in relation to the proceedings under subsection (1) ceases to have effect.

(9) The Welsh Ministers may by order amend subsection (7) to—

**“Determination of procedure for certain proceedings: Wales**

**319B.**—(1) The Welsh Ministers must make a determination as to the procedure by which proceedings to which this section applies are to be considered.

(2) A determination under subsection (1) must provide for the proceedings to be considered in such one or more of the following ways as appear to the Welsh Ministers to be appropriate—

- (a) at a local inquiry;
- (b) at a hearing;
- (c) on the basis of representations in writing.

(3) The Welsh Ministers must make a determination under subsection (1) in respect of proceedings to which this section applies before the end of the prescribed period.

(4) A determination under subsection (1) may be varied by a subsequent determination under that subsection at any time before the proceedings are determined.

(5) The Welsh Ministers must notify the appellant or applicant (as the case may be) and the local planning authority of any determination made under subsection (1).

(6) The Welsh Ministers must publish the criteria which are to be applied in making determinations under subsection (1).

(7) This section applies to—

- (a) an application referred to the Welsh Ministers under section 77;
- (b) an appeal to the Welsh Ministers under section 78;
- (c) an appeal to the Welsh Ministers under section 174;
- (d) an appeal to the Welsh Ministers under section 195; and
- (e) an appeal to the Welsh Ministers under section 208.

(8) But this section does not apply to proceedings if they are referred to a Planning Inquiry Commission under section 101; and on proceedings being so referred, any determination made in relation to the proceedings under subsection (1) ceases to have effect.

(9) The Welsh Ministers may by order amend subsection (7) to—

(a) add proceedings to, or remove proceedings from, the list of proceedings to which this section applies, or

(b) otherwise modify the descriptions of proceedings to which this section applies.

(10) An order under subsection (9) may—

(a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;

(b) amend, repeal or revoke any provision made by or under this Act or by or under any other Act.

(11) No order may be made under subsection (9) unless a draft of the instrument containing the order has been laid before and approved by resolution of the National Assembly for Wales.”

(2) Ar ôl adran 88D o Ddeddf Cynllunio (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1990(1) (y mae ei henw yn newid i “Determination of procedure for certain proceedings: England”) mewnosoder—

**“Determination of procedure for certain proceedings: Wales**

**88E.**—(1) The Welsh Ministers must make a determination as to the procedure by which proceedings to which this section applies are to be considered.

(2) A determination under subsection (1) must provide for the proceedings to be considered in such one or more of the following ways as appear to the Welsh Ministers to be appropriate—

(a) at a local inquiry;

(b) at a hearing;

(c) on the basis of representations in writing.

(3) The Welsh Ministers must make a determination under subsection (1) in respect of proceedings to which this section applies before the end of the prescribed period.

(4) A determination under subsection (1) may be varied by a subsequent determination under that subsection at any time before the proceedings are determined.

(5) The Welsh Ministers must notify the appellant or applicant (as the case may be) and

(a) add proceedings to, or remove proceedings from, the list of proceedings to which this section applies, or

(b) otherwise modify the descriptions of proceedings to which this section applies.

(10) An order under subsection (9) may—

(a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;

(b) amend, repeal or revoke any provision made by or under this Act or by or under any other Act.

(11) No order may be made under subsection (9) unless a draft of the instrument containing the order has been laid before and approved by resolution of the National Assembly for Wales.”

(2) After section 88D of the Planning (Listed Buildings and Conservation Areas) Act 1990(1) (the title of which becomes “Determination of procedure for certain proceedings: England”) insert—

**“Determination of procedure for certain proceedings: Wales**

**88E.**—(1) The Welsh Ministers must make a determination as to the procedure by which proceedings to which this section applies are to be considered.

(2) A determination under subsection (1) must provide for the proceedings to be considered in such one or more of the following ways as appear to the Welsh Ministers to be appropriate—

(a) at a local inquiry;

(b) at a hearing;

(c) on the basis of representations in writing.

(3) The Welsh Ministers must make a determination under subsection (1) in respect of proceedings to which this section applies before the end of the prescribed period.

(4) A determination under subsection (1) may be varied by a subsequent determination under that subsection at any time before the proceedings are determined.

(5) The Welsh Ministers must notify the appellant or applicant (as the case may be) and

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(1) 1990 p. 9. Mewnosodwyd adran 88D gan adran 196(2) o Ddeddf 2008. Nid yw adran 196(2) wedi ei chychwyn yn llawn.

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(1) 1990 c. 9. Section 88D was inserted by section 196(2) of the 2008 Act. Section 196(2) has not been fully commenced.

the local planning authority of any determination made under subsection (1).

(6) The Welsh Ministers must publish the criteria which are to be applied in making determinations under subsection (1).

(7) This section applies to—

- (a) an application referred to the Welsh Ministers under section 12;
- (b) an appeal to the Welsh Ministers under section 20;
- (c) an appeal to the Welsh Ministers under section 39.

(8) The Welsh Ministers may by order amend subsection (7) to—

- (a) add proceedings under this Act to, or remove proceedings under this Act from, the list of proceedings to which this section applies; or
- (b) otherwise modify the descriptions of proceedings under this Act to which this section applies.

(9) An order under subsection (8) may—

- (a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;
- (b) amend, repeal or revoke any provision made by or under this Act or by or under any other Act.

(10) No order may be made under subsection (8) unless a draft of the instrument containing the order has been laid before and approved by resolution of the National Assembly for Wales.”

(3) Ar ôl adran 21A o Ddeddf Cynllunio (Sylweddau Peryglus) 1990(1) mewnosoder—

#### **“Determination by the Welsh Ministers of procedure for certain proceedings**

**21B.**—(1) The Welsh Ministers must make a determination as to the procedure by which proceedings to which this section applies are to be considered.

(2) A determination under subsection (1) must provide for the proceedings to be considered in such one or more of the following ways as appear to the Welsh Ministers to be appropriate—

- (a) at a local inquiry;

the local planning authority of any determination made under subsection (1).

(6) The Welsh Ministers must publish the criteria which are to be applied in making determinations under subsection (1).

(7) This section applies to—

- (a) an application referred to the Welsh Ministers under section 12;
- (b) an appeal to the Welsh Ministers under section 20;
- (c) an appeal to the Welsh Ministers under section 39.

(8) The Welsh Ministers may by order amend subsection (7) to—

- (a) add proceedings under this Act to, or remove proceedings under this Act from, the list of proceedings to which this section applies; or
- (b) otherwise modify the descriptions of proceedings under this Act to which this section applies.

(9) An order under subsection (8) may—

- (a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;
- (b) amend, repeal or revoke any provision made by or under this Act or by or under any other Act.

(10) No order may be made under subsection (8) unless a draft of the instrument containing the order has been laid before and approved by resolution of the National Assembly for Wales.”

(3) After section 21A of the Planning (Hazardous Substances) Act 1990(1) insert—

#### **“Determination by the Welsh Ministers of procedure for certain proceedings**

**21B.**—(1) The Welsh Ministers must make a determination as to the procedure by which proceedings to which this section applies are to be considered.

(2) A determination under subsection (1) must provide for the proceedings to be considered in such one or more of the following ways as appear to the Welsh Ministers to be appropriate—

- (a) at a local inquiry;

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(1) 1990 p. 10. Mewnosodwyd adran 21A gan adran 196(3) o Ddeddf 2008. Nid yw adran 196(3) wedi ei chychwyn yn llawn.

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(1) 1990 c. 10. Section 21A was inserted by section 196(3) of the 2008 Act. Section 196(3) has not been fully commenced.

- (b) at a hearing;
- (c) on the basis of representations in writing.

(3) The Welsh Ministers must make a determination under subsection (1) in respect of proceedings to which this section applies before the end of the prescribed period.

(4) A determination under subsection (1) may be varied by a subsequent determination under that subsection at any time before the proceedings are determined.

(5) The Welsh Ministers must notify the appellant or applicant (as the case may be) and the hazardous substances authority of any determination made under subsection (1).

(6) The Welsh Ministers must publish the criteria which are to be applied in making determinations under subsection (1).

(7) This section applies to—

- (a) an application referred to the Welsh Ministers under section 20;
- (b) an appeal to the Welsh Ministers under section 21.

(8) The Welsh Ministers may by order amend subsection (7) to—

- (a) add proceedings under this Act to, or remove proceedings under this Act from, the list of proceedings to which this section applies; or
- (b) otherwise modify the descriptions of proceedings under this Act to which this section applies.

(9) An order under subsection (8) may—

- (a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;
- (b) amend, repeal or revoke any provision made by or under this Act or by or under any other Act.

(10) No order may be made by the Welsh Ministers under subsection (8) unless a draft of the instrument containing the order has been laid before, and approved by resolution of the National Assembly for Wales.”

- (b) at a hearing;
- (c) on the basis of representations in writing.

(3) The Welsh Ministers must make a determination under subsection (1) in respect of proceedings to which this section applies before the end of the prescribed period.

(4) A determination under subsection (1) may be varied by a subsequent determination under that subsection at any time before the proceedings are determined.

(5) The Welsh Ministers must notify the appellant or applicant (as the case may be) and the hazardous substances authority of any determination made under subsection (1).

(6) The Welsh Ministers must publish the criteria which are to be applied in making determinations under subsection (1).

(7) This section applies to—

- (a) an application referred to the Welsh Ministers under section 20;
- (b) an appeal to the Welsh Ministers under section 21.

(8) The Welsh Ministers may by order amend subsection (7) to—

- (a) add proceedings under this Act to, or remove proceedings under this Act from, the list of proceedings to which this section applies; or
- (b) otherwise modify the descriptions of proceedings under this Act to which this section applies.

(9) An order under subsection (8) may—

- (a) contain incidental, supplementary, consequential, transitional and transitory provision and savings;
- (b) amend, repeal or revoke any provision made by or under this Act or by or under any other Act.

(10) No order may be made by the Welsh Ministers under subsection (8) unless a draft of the instrument containing the order has been laid before, and approved by resolution of the National Assembly for Wales.”

## Diwygiadau Canlyniadol

3. Mae'r Atodlen (darpariaethau pellach o ran y weithdrefn ar gyfer achosion penodol) yn cael effaith.

## Consequential Amendments

3. The Schedule (further provisions as to the procedure for certain proceedings) has effect.

*Carl Sargeant*

Y Gweinidog Cyfoeth Naturiol, un o Weinidogion Cymru

14 Hydref 2014

Minister for Natural Resources, one of the Welsh Ministers

14 October 2014

## YR ATODLEN Erthygl 3

### Darpariaethau pellach o ran y weithdrefn ar gyfer achosion penodol

*Deddf Cynllunio Gwlad a Thref 1990*

1. Mae Deddf Cynllunio Gwlad a Thref 1990 wedi ei diwygio fel a ganlyn.

2. Yn adran 77 (atgyfeirio ceisiadau at yr Ysgrifennydd Gwladol) cyn is-adran (7) mewnosoder—

“(6A) Subsection (5) does not apply to an application referred to the Welsh Ministers under this section instead of being dealt with by a local planning authority in Wales.”

3. Yn adran 78 (hawl i apelio yn erbyn penderfyniadau cynllunio a methiant i wneud penderfyniadau o'r fath) yn is-adran (5)(1) yn lle “and 319A(7)(b)” rhodder “, 319A(7)(b) and 319B(7)(b)”.

4. Yn adran 79 (penderfynu ar apelau) cyn is-adran (4) mewnosoder—

“(3A) Subsection (2) does not apply to an appeal to the Welsh Ministers.”

5. Yn adran 175 (darpariaethau atodol ynglŷn ag apelau yn erbyn hysbysiadau gorfodi) cyn is-adran (4), mewnosoder—

“(3B) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in Wales.”

## SCHEDULE Article 3

### Further provisions as to the procedure for certain proceedings

*Town and Country Planning Act 1990*

1. The Town and Country Planning Act 1990 is amended as follows.

2. In section 77 (reference of applications to Secretary of State) before subsection (7) insert—

“(6A) Subsection (5) does not apply to an application referred to the Welsh Ministers under this section instead of being dealt with by a local planning authority in Wales.”

3. In section 78 (right to appeal against planning decisions and failure to take such decisions) in subsection (5)(1) for “and 319A(7)(b)” substitute “, 319A(7)(b) and 319B(7)(b)”.

4. In section 79 (determination of appeals) before subsection (4) insert—

“(3A) Subsection (2) does not apply to an appeal to the Welsh Ministers.”

5. In section 175 (supplementary provisions about appeals against enforcement notices) before subsection (4) insert—

“(3B) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in Wales.”

(1) Diwygiwyd is-adran (5) gan adran 196(4) o Ddeddf 2008 a pharagraffau 1 a 3 o Atodlen 10 iddi. Nid yw paragraffau 1 a 3 wedi eu cychwyn yn llawn. Mae diwygiadau eraill i adran 78 nad ydynt yn berthnasol i'r Gorchymyn hwn.

(1) Subsection (5) was amended by section 196(4) of, and paragraphs 1 and 3 of Schedule 10 to, the 2008 Act. Paragraphs 1 and 3 have not been fully commenced. There are other amendments to section 78 which are not relevant to this Order.



6. Yn adran 195 (apelau yn erbyn gwrthodiad neu fethiant i benderfynu ar gais) yn is-adran (5)(1) ar ôl “For the purposes of the application” mewnosoder “in relation to England” ac ar ôl yr is-adran honno mewnosoder—

“(5A) For the purposes of the application in relation to Wales of sections 288(10)(b) and 319B(7)(d) in relation to an appeal in a case within subsection (1)(b) it shall be assumed that the authority decided to refuse the application in question.”

7.—(1) Mae adran 196 (darpariaethau pellach o ran atgyfeirio at yr Ysgrifennydd Gwladol ac apelio iddo) wedi ei diwygio fel a ganlyn.

(2) Cyn is-adran (2) mewnosoder—

“(1B) Subsection (1) does not apply to an appeal to the Welsh Ministers.”

(3) Yn is-adran (2) yn lle “such an appeal” rhodder “an appeal under section 195(1)”.

8.—(1) Mae adran 208 (apelau yn erbyn hysbysiadau o dan adran 207) wedi ei diwygio fel a ganlyn.

(2) Cyn is-adran (6) mewnosoder—

“(5B) Subsection (5) does not apply to an appeal to the Welsh Ministers.”

(3) Yn is-adran (6) yn lle “such an appeal is brought” rhodder “an appeal is brought under subsection (1)”.

9. Yn adran 322 (gorchmynion o ran costau partion pan na fo ymchwiliad lleol wedi ei gynnal) cyn is-adran (1B)(2) mewnosoder—

“(1AA) This section also applies to proceedings under this Act to which section 319B applies.”

10. Yn adran 322A(3) cyn is-adran (2) mewnosoder—

“(1B) This section also applies where—

- (a) arrangements are made for a local inquiry or a hearing to be held pursuant to a determination of the Welsh Ministers under section 319B;
- (b) the inquiry or hearing does not take place; and

6. In section 195 (appeals against refusal or failure to give decision on application) in subsection (5)(1) after “For the purposes of the application” insert “in relation to England” and after that subsection insert—

“(5A) For the purposes of the application in relation to Wales of sections 288(10)(b) and 319B(7)(d) in relation to an appeal in a case within subsection (1)(b) it shall be assumed that the authority decided to refuse the application in question.”

7.—(1) Section 196 (further provisions as to references and appeals to the Secretary of State) is amended as follows.

(2) Before subsection (2) insert—

“(1B) Subsection (1) does not apply to an appeal to the Welsh Ministers.”

(3) In subsection (2) for “such an appeal” substitute “an appeal under section 195(1)”.

8.—(1) Section 208 (appeals against notices under section 207) is amended as follows.

(2) Before subsection (6) insert—

“(5B) Subsection (5) does not apply to an appeal to the Welsh Ministers.”

(3) In subsection (6) for “such an appeal is brought” substitute “an appeal is brought under subsection (1)”.

9. In section 322 (orders as to costs of parties where no local inquiry held) before subsection (1B)(2) insert—

“(1AA) This section also applies to proceedings under this Act to which section 319B applies.”

10. In section 322A(3) before subsection (2) insert—

“(1B) This section also applies where—

- (a) arrangements are made for a local inquiry or a hearing to be held pursuant to a determination of the Welsh Ministers under section 319B;
- (b) the inquiry or hearing does not take place; and

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(1) Diwygiwyd adran 195(5) gan adran 196(4) o Ddeddf 2008, a pharagraffau 1 a 7 o Atodlen 10 iddi. Nid yw paragraff 7 wedi ei gychwyn. Mae diwygiadau eraill i adran 195 nad ydynt yn berthnasol i'r Gorchymyn hwn.

(2) Mewnosodwyd is-adran (1B) gan adran 2(2) o Ddeddf Twf a Seilwaith 2013. Mae diwygiadau eraill i'r adran hon nad ydynt yn berthnasol i'r Gorchymyn hwn.

(3) Mewnosodwyd adran 322A gan adran 30 o Ddeddf Cynllunio a Digolledu 1991 (p. 34). Mae diwygiadau eraill i'r adran nad ydynt yn berthnasol i'r Gorchymyn hwn.

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(1) Section 195(5) was amended by section 196(4) of, and paragraphs 1 and 7 of Schedule 10 to, the 2008 Act. Paragraph 7 has not been commenced. There are other amendments to section 195 not relevant to this Order.

(2) Subsection (1B) was inserted by section 2(2) of the Growth and Infrastructure Act 2013. There are other amendments to this section not relevant to this Order.

(3) Section 322A was inserted by section 30 of the Planning and Compensation Act 1991 (c. 34). There are other amendments to the section not relevant to this Order.

- (c) if it had taken place, the Welsh Ministers or a person appointed by the Welsh Ministers would have had power to make an order under section 250(5) of the Local Government Act 1972 requiring any party to pay any costs of any other party.”

**11.**—(1) Mae adran 323 wedi ei diwygio fel a ganlyn.

(2) Cyn is-adran (2), mewnosoder—

“(1B) The Welsh Ministers may by regulations prescribe the procedure to be followed in connection with proceedings under this Act which, pursuant to a determination under section 319B, are to be considered on the basis of representations in writing.”

(3) Yn is-adrannau (2) a (3) yn lle “The regulations may” (i’r graddau y mae’r geiriau hynny’n parhau i fod yn rhan o’r is-adrannau hynny(1)) rhodder “Regulations under this section may”.

**12.** Yn adran 333 (rheoliadau a gorchmynion) cyn is-adran (5), mewnosoder—

“(4A) The power to make orders under section 319B(9) shall be exercisable by statutory instrument.”

**13.**—(1) Mae Atodlen 6 wedi ei diwygio fel a ganlyn.

(2) Ym mharagraff 2—

(a) cyn is-baragraff (6) mewnosoder—

“(5A) Sub-paragraph (2) does not apply in the case of an appeal to which section 319B applies.”;

(b) cyn is-baragraff (11)(2) mewnosoder—

“(10A) Sub-paragraph (9) does not apply to references to the Welsh Ministers in section 319B (determination of procedure for certain proceedings: Wales).”

(3) Ym mharagraff 3—

(a) ar ôl is-baragraff (5)(3) mewnosoder—

“(5ZA) Sub-paragraph (4) does not apply in the case of an appeal to which section 319B applies.”;

- (c) if it had taken place, the Welsh Ministers or a person appointed by the Welsh Ministers would have had power to make an order under section 250(5) of the Local Government Act 1972 requiring any party to pay any costs of any other party.”

**11.**—(1) Section 323 is amended as follows.

(2) Before subsection (2) insert—

“(1B) The Welsh Ministers may by regulations prescribe the procedure to be followed in connection with proceedings under this Act which, pursuant to a determination under section 319B, are to be considered on the basis of representations in writing.”

(3) In subsections (2) and (3) for “The regulations may” (in so far as those words continue to form part of those subsections(1)) substitute “Regulations under this section may”.

**12.** In section 333 (regulations and orders) before subsection (5) insert—

“(4A) The power to make orders under section 319B(9) shall be exercisable by statutory instrument.”

**13.**—(1) Schedule 6 is amended as follows.

(2) In paragraph 2—

(a) before sub-paragraph (6) insert—

“(5A) Sub-paragraph (2) does not apply in the case of an appeal to which section 319B applies.”;

(b) before sub-paragraph (11)(2) insert—

“(10A) Sub-paragraph (9) does not apply to references to the Welsh Ministers in section 319B (determination of procedure for certain proceedings: Wales).”

(3) In paragraph 3—

(a) after sub-paragraph (5)(3) insert—

“(5ZA) Sub-paragraph (4) does not apply in the case of an appeal to which section 319B applies.”;

(1) Diwygiwyd adran 323(2) a (3) gan baragraff 12(3) o Atodlen 10 i Ddeddf 2008. Mae paragraff 12 wedi ei gychwyn at ddibenion penodol, gweler erthygl 3(j) o Orchymyn Deddf Cynllunio 2008 (Cychwyn Rhif 1 ac Arbedion) 2009 (O.S. 2008/400).

(2) Mewnosodwyd paragraff 2(11) gan adran 2(7) o Ddeddf Twf a Seilwaith 2013.

(3) Amnewidiwyd paragraff 3(5) gan adran 196(4) o Ddeddf 2008, a pharagraffau 1 a 14(1) o Atodlen 10 iddi. Nid yw paragraff 14 wedi ei gychwyn.

(1) Section 323(2) and (3) was amended by paragraph 12(3) of Schedule 10 to the 2008 Act. Paragraph 12 has been commenced for certain purposes, see article 3(j) of the Planning Act 2008 (Commencement No 1 and Savings) Order 2009 (S.I. 2008/400).

(2) Paragraph 2(11) was inserted by section 2(7) of the Growth and Infrastructure Act 2013.

(3) Paragraph 3(5) was substituted by section 196(4) of, and paragraphs 1 and 14(1) of Schedule 10 to, the 2008 Act. Paragraph 14 has not been commenced.

- (b) cyn is-baragraff (6)(1) mewnosoder—  
 “(5B) In the case of an appeal to which section 319B applies, the Welsh Ministers must give the appellant, the local planning authority and any person who has made any representations mentioned in sub-paragraph (2) an opportunity to make further representations if the reasons for the direction raise matters with respect to which any of those persons have not made representations.”;
- (c) yn is-baragraff (b) cyn “, the Secretary of State” mewnosoder “or (5B)”.

(4) Ym mharagraff 6—

- (a) cyn is-baragraff (2) mewnosoder—  
 “(1B) Sub-paragraph (1) does not apply in the case of an appeal to which section 319B applies; but an appointed person may hold a hearing or local inquiry in connection with such an appeal pursuant to a determination under that section.”;
- (b) yn is-baragraff (2)(a) ar ôl “2(4)” mewnosoder “or this paragraph” (i’r graddau nad yw’r is-baragraff hwnnw eisoes yn cynnwys y geiriau hynny(2)).

*Deddf Cynllunio (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1990*

**14.** Mae Deddf Cynllunio (Adeiladau Rhestredig ac Ardaloedd Cadwraeth) 1990 wedi ei diwygio fel a ganlyn.

**15.** Yn adran 12 (atgyfeirio ceisiadau penodol at yr Ysgrifennydd Gwladol) cyn is-adran (5) mewnosoder—

“(4B) Subsection (4) does not apply to an application referred to the Welsh Ministers under this section instead of being dealt with by a local planning authority in Wales.”

**16.** Yn adran 20(4) (hawl i apelio yn achos methiant i hysbysu am benderfyniad)(3) ar ôl “For the purposes of the application” mewnosoder “in relation to England” ac ar ôl yr is-adran honno mewnosoder—

- (b) before sub-paragraph (6)(1) insert—  
 “(5B) In the case of an appeal to which section 319B applies, the Welsh Ministers must give the appellant, the local planning authority and any person who has made any representations mentioned in sub-paragraph (2) an opportunity to make further representations if the reasons for the direction raise matters with respect to which any of those persons have not made representations.”;
- (c) in sub-paragraph (6) before “, the Secretary of State” insert “or (5B)”.

(4) In paragraph 6—

- (a) before sub-paragraph (2) insert—  
 “(1B) Sub-paragraph (1) does not apply in the case of an appeal to which section 319B applies; but an appointed person may hold a hearing or local inquiry in connection with such an appeal pursuant to a determination under that section.”;
- (b) in sub-paragraph (2)(a) after “2(4)” insert “or this paragraph” (in so far as that sub-paragraph does not already include those words(2)).

*Planning (Listed Buildings and Conservation Areas) Act 1990*

**14.** The Planning (Listed Buildings and Conservation Areas) Act 1990 is amended as follows.

**15.** In section 12 (reference of certain applications to Secretary of State) before subsection (5) insert—

“(4B) Subsection (4) does not apply to an application referred to the Welsh Ministers under this section instead of being dealt with by a local planning authority in Wales.”

**16.** In section 20(4) (right of appeal in case of failure to give notice of decision)(3) after “For the purposes of the application” insert “in relation to England” and after that subsection insert—

(1) Mae diwygiadau i is-baragraff (6) nad ydynt yn berthnasol i’r Gorchymyn hwn.  
 (2) Diwygiwyd paragraff 6(2)(a) gan baragraff 14(7) o Atodlen 10 i Ddeddf 2008. Mae paragraff 14(7) wedi ei gychwyn at ddbenion penodol, gweler erthygl 3(j) o Orchymyn Deddf Cynllunio 2008 (Cychwyn Rhif 1 ac Arbedion) 2009.  
 (3) Diwygiwyd adran 20(4) gan adran 196(4) o Ddeddf 2008, a pharagraffau 15 a 17 o Atodlen 10 iddi. Nid yw paragraff 17 wedi ei gychwyn.

(1) There are amendments to sub-paragraph (6) not relevant to this Order.  
 (2) Paragraph 6(2)(a) was amended by paragraph 14(7) of Schedule 10 to the 2008 Act. Paragraph 14(7) has been commenced for certain purposes, see article 3(j) of the Planning Act 2008 (Commencement No 1 and Savings) Order 2009.  
 (3) Section 20(4) was amended by section 196(4) of, and paragraphs 15 and 17 of Schedule 10 to, the 2008 Act. Paragraph 17 has not been commenced.

“(5) For the purposes of the application in relation to Wales of sections 22(1), 63(7)(b) and 88E(7)(b) in relation to an appeal under subsection (2) it shall be assumed that the authority decided to refuse the application in question.”

**17.**—(1) Mae adran 22 (penderfynu ar apelau o dan adran 20) wedi ei diwygio fel a ganlyn.

(2) Cyn is-adran (3) mewnosoder—

“(2B) Subsection (2) does not apply to an appeal to the Welsh Ministers.”

(3) Yn is-adran (3) yn lle “the appeal” rhodder “an appeal under section 20”.

**18.** Yn adran 40 (darpariaethau atodol ynglŷn ag apelau yn erbyn hysbysiadau gorfodi adeiladau rhestredig) cyn is-adran (3) mewnosoder—

“(2B) Subsection (2) does not apply to an appeal against a listed building enforcement notice issued by a local planning authority in Wales.”

**19.** Yn adran 41(4) (penderfynu ar apelau: datgymhwyso adran 40(2))—

(a) ar ôl “If” mewnosoder “section 40(2) would otherwise apply and”, a

(b) ar ôl “subsection (3)” mewnosoder “of this section”.

**20.** Yn adran 74(3)(1) (cymhwyso darpariaethau penodol mewn perthynas ag adeiladau mewn ardaloedd cadwraeth) cyn “and 90(2) to (4)” mewnosoder “, 88E”.

**21.** Yn adran 89 (cymhwyso darpariaethau cyffredinol penodol DCGTh 1990) cyn is-adran (1A)(2) mewnosoder—

“(1ZB) In the application of sections 322, 322A and 323 of that Act, references to section 319B of that Act shall have effect as references to section 88E of this Act.”

**22.** Yn adran 93 (rheoliadau a gorchmynion) yn is-adran (4)(3) cyn “and 92” mewnosoder “, 88E”.

“(5) For the purposes of the application in relation to Wales of sections 22(1), 63(7)(b) and 88E(7)(b) in relation to an appeal under subsection (2) it shall be assumed that the authority decided to refuse the application in question.”

**17.**—(1) Section 22 (determination of appeals under section 20) is amended as follows.

(2) Before subsection (3) insert—

“(2B) Subsection (2) does not apply to an appeal to the Welsh Ministers.”

(3) In subsection (3) for “the appeal” substitute “an appeal under section 20”.

**18.** In section 40 (supplementary provisions about appeals against listed building enforcement notices) before subsection (3) insert—

“(2B) Subsection (2) does not apply to an appeal against a listed building enforcement notice issued by a local planning authority in Wales.”

**19.** In section 41(4) (determination of appeals: disapplication of section 40(2))—

(a) after “If” insert “section 40(2) would otherwise apply and”; and

(b) after “subsection (3)” insert “of this section”.

**20.** In section 74(3)(1) (application of certain provisions in relation to buildings in conservation areas) before “and 90(2) to (4)” insert “, 88E”.

**21.** In section 89 (application of certain general provisions of TCPA 1990) before subsection (1A)(2) insert—

“(1ZB) In the application of sections 322, 322A and 323 of that Act, references to section 319B of that Act shall have effect as references to section 88E of this Act.”

**22.** In section 93 (regulations and orders) in subsection (4)(3) before “and 92” insert “, 88E”.

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(1) Diwygiwyd adran 74(3) gan adran 196(4) o Ddeddf 2008, a pharagraffau 15 a 21 o Atodlen 10 iddi. Nid yw paragraff 21 wedi ei gychwyn. Mae diwygiadau eraill i'r is-adran nad ydynt yn berthnasol i'r Gorchymyn hwn.

(2) Mewnosodwyd is-adran (1A) gan erthygl 8 o Orchymyn Cynllunio Gwlad a Thref (Cyfathrebu Electronig) (Cymru) (Rhif 1) 2004 (O.S. 2004/3156 (Cy. 273)).

(3) Diwygiwyd is-adran (4) gan adran 196(4) o Ddeddf 2008, a pharagraffau 15 a 23 o Atodlen 10 iddi. Nid yw paragraff 23 wedi ei gychwyn. Mae diwygiadau eraill i is-adran (4) nad ydynt yn berthnasol i'r Gorchymyn hwn.

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(1) Section 74(3) was amended by section 196(4) of, and paragraphs 15 and 21 of Schedule 10 to, the 2008 Act. Paragraph 21 has not been commenced. There are other amendments to the subsection not relevant to this Order.

(2) Subsection (1A) was inserted by article 8 of the Town and Country Planning (Electronic Communications) (Wales) (No 1) Order 2004 (S.I. 2004/3156 (W. 273)).

(3) Subsection (4) was amended by section 196(4) of, and paragraphs 15 and 23 of Schedule 10 to, the 2008 Act. Paragraph 23 has not been commenced. There are other amendments to subsection (4) not relevant to this Order.

**23.**—(1) Mae Atodlen 3 wedi ei diwygio fel a ganlyn.

(2) Ym mharagraff 2—

(a) cyn is-baragraff (5) mewnosoder—

“(4B) Sub-paragraph (2) does not apply in the case of an appeal to which section 88E applies.”;

(b) ar ôl is-baragraff (9)(1) mewnosoder—

“(10) Sub-paragraph (8) does not apply to references to the Welsh Ministers in section 88E (determination of procedure for certain proceedings: Wales).”

(3) Ym mharagraff 3—

(a) cyn is-baragraff (5) mewnosoder—

“(4C) Sub-paragraph (4) does not apply in the case of an appeal to which section 88E applies.

(4D) In the case of an appeal to which section 88E applies, the Welsh Ministers must give the appellant, the local planning authority and any person who has made any representations mentioned in sub-paragraph (2) an opportunity to make further representations if the reasons for the direction raise matters with respect to which any of those persons have not made representations.”;

(b) yn is-baragraff (5) cyn “, the Secretary of State” mewnosoder “or (4D)”.

(4) Ym mharagraff 6—

(a) cyn is-baragraff (2) mewnosoder—

“(1B) Sub-paragraph (1) does not apply in the case of an appeal to which section 88E applies, but an appointed person may hold a hearing or local inquiry in connection with such an appeal pursuant to a determination under that section.”;

(b) yn is-baragraff (2)(a) ar ôl “2(4)” mewnosoder “or this paragraph”.

*Deddf Cynllunio (Sylweddau Peryglus) 1990*

**24.** Mae Deddf Cynllunio (Sylweddau Peryglus) 1990 wedi ei diwygio fel a ganlyn.

**25.** Yn adran 20 (atgyfeirio ceisiadau at yr Ysgrifennydd Gwladol) cyn is-adran (5) mewnosoder—

“(4B) Subsection (4) does not apply to an application referred to the Welsh Ministers under this section instead of being dealt with by a hazardous substances authority in Wales.”

---

(1) Mewnosodwyd is-baragraff (9) gan adran 196(4) o Ddeddf 2008, a pharagraffau 15 a 24(3) o Atodlen 10 iddi.

**23.**—(1) Schedule 3 is amended as follows.

(2) In paragraph 2—

(a) before sub-paragraph (5) insert—

“(4B) Sub-paragraph (2) does not apply in the case of an appeal to which section 88E applies.”;

(b) after sub-paragraph (9)(1) insert—

“(10) Sub-paragraph (8) does not apply to references to the Welsh Ministers in section 88E (determination of procedure for certain proceedings: Wales).”

(3) In paragraph 3—

(a) before sub-paragraph (5) insert—

“(4C) Sub-paragraph (4) does not apply in the case of an appeal to which section 88E applies.

(4D) In the case of an appeal to which section 88E applies, the Welsh Ministers must give the appellant, the local planning authority and any person who has made any representations mentioned in sub-paragraph (2) an opportunity to make further representations if the reasons for the direction raise matters with respect to which any of those persons have not made representations.”;

(b) in sub-paragraph (5) before “, the Secretary of State” insert “or (4D)”.

(4) In paragraph 6—

(a) before sub-paragraph (2) insert—

“(1B) Sub-paragraph (1) does not apply in the case of an appeal to which section 88E applies, but an appointed person may hold a hearing or local inquiry in connection with such an appeal pursuant to a determination under that section.”;

(b) in sub-paragraph (2)(a) after “2(4)” insert “or this paragraph”.

*Planning (Hazardous Substances) Act 1990*

**24.** The Planning (Hazardous Substances) Act 1990 is amended as follows.

**25.** In section 20 (reference of applications to the Secretary of State) before subsection (5) insert—

“(4B) Subsection (4) does not apply to an application referred to the Welsh Ministers under this section instead of being dealt with by a hazardous substances authority in Wales.”

---

(1) Sub-paragraph (9) was inserted by section 196(4) of, and paragraphs 15 and 24(3) of Schedule 10 to, the 2008 Act.

**26.** Yn adran 21 (apelau yn erbyn penderfyniadau neu fethiant i wneud penderfyniadau sy'n ymwneud â sylweddau peryglus) cyn is-adran (6) mewnosoder—

“(5B) Subsection (5) does not apply to an appeal against a decision of a hazardous substances authority in Wales.”

**27.** Yn adran 25(1) (apelau yn erbyn hysbysiadau tramgwydd sylweddau peryglus: darpariaethau atodol)—

- (a) ym mharagraff (b)(v)(1) cyn “of this Act” mewnosoder “and section 21B”; a
- (b) ym mharagraff (c) yn lle “that Act” rhodder “the principal Act”.

**28.** Ar ôl adran 37 ar y diwedd mewnosoder—

“(4) In the application of sections 322, 322A and 323 of that Act by virtue of this section in relation to proceedings in Wales, references to section 319B of that Act shall have effect as references to section 21B of this Act.”

**29.**—(1) Mae'r Atodlen wedi ei diwygio fel a ganlyn.

(2) Ym mharagraff 2 cyn is-baragraff (5) mewnosoder—

“(4B) Sub-paragraph (2) does not apply to an appeal to the Welsh Ministers.”

(3) Ar ôl is-baragraff (9)(2) o'r paragraff hwnnw, mewnosoder—

“(10) Sub-paragraph (8) does not apply to references to the Welsh Ministers in section 21B (determination by the Welsh Ministers of procedure for certain proceedings).”

(4) Ym mharagraff 3 cyn is-baragraff (5) mewnosoder—

“(4C) Sub-paragraph (4) does not apply in the case of an appeal to the Welsh Ministers.

(4D) In the case of an appeal to which section 21B applies, the Welsh Ministers must give the appellant, the hazardous substances authority and any person who has made representations mentioned in sub-paragraph (2) an opportunity to make further representations if the reasons for the direction raise matters with respect to which any of those persons have not made representations.”

**26.** In section 21 (appeals against decisions or failure to take decisions relating to hazardous substances) before subsection (6) insert—

“(5B) Subsection (5) does not apply to an appeal against a decision of a hazardous substances authority in Wales.”

**27.** In section 25(1) (appeals against hazardous substances contravention notices: supplementary provisions)—

- (a) in paragraph (b)(v)(1) before “of this Act” insert “and section 21B”; and
- (b) in paragraph (c) for “that Act” substitute “the principal Act”.

**28.** After section 37 at the end insert—

“(4) In the application of sections 322, 322A and 323 of that Act by virtue of this section in relation to proceedings in Wales, references to section 319B of that Act shall have effect as references to section 21B of this Act.”

**29.**—(1) The Schedule is amended as follows.

(2) In paragraph 2 before sub-paragraph (5) insert—

“(4B) Sub-paragraph (2) does not apply to an appeal to the Welsh Ministers.”

(3) After sub-paragraph (9)(2) of that paragraph, insert—

“(10) Sub-paragraph (8) does not apply to references to the Welsh Ministers in section 21B (determination by the Welsh Ministers of procedure for certain proceedings).”

(4) In paragraph 3 before sub-paragraph (5) insert—

“(4C) Sub-paragraph (4) does not apply in the case of an appeal to the Welsh Ministers.

(4D) In the case of an appeal to which section 21B applies, the Welsh Ministers must give the appellant, the hazardous substances authority and any person who has made representations mentioned in sub-paragraph (2) an opportunity to make further representations if the reasons for the direction raise matters with respect to which any of those persons have not made representations.”

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(1) Diwygiwyd paragraff (b)(v) gan adran 196(4) o Ddeddf 2008, a pharagraffau 25 a 28 o Atodlen 10 iddi. Nid yw paragraff 28 wedi ei gychwyn.

(2) Mewnosodwyd is-baragraff (9) gan adran 196(4) o Ddeddf 2008, a pharagraffau 25 a 30(1) a (3) o Atodlen 10 iddi.

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(1) Paragraph (b)(v) was amended by section 196(4) of, and paragraphs 25 and 28 of Schedule 10 to, the 2008 Act. Paragraph 28 has not been commenced.

(2) Sub-paragraph (9) was inserted by section 196(4) of, and paragraphs 25 and 30(1) and (3) of Schedule 10 to, the 2008 Act.

(5) Yn is-baragraff (5)(1) o'r paragraff hwnnw, cyn “, the Secretary of State” mewnosoder “or (4D)”.

(6) Ym mharagraff 6—

(a) cyn is-baragraff (2) mewnosoder—

“(1B) Sub-paragraph (1) does not apply in the case of an appeal to the Welsh Ministers, but an appointed person may hold a hearing or a local inquiry in connection with such an appeal pursuant to a determination under section 21B.”; a

(b) yn is-baragraffau (2)(a) a (3)(a) ar ôl “2(4)” mewnosoder “or this paragraph”.

(5) In sub-paragraph (5)(1) of that paragraph before “, the Secretary of State” insert “or (4D)”.

(6) In paragraph 6—

(a) before sub-paragraph (2) insert—

“(1B) Sub-paragraph (1) does not apply in the case of an appeal to the Welsh Ministers, but an appointed person may hold a hearing or a local inquiry in connection with such an appeal pursuant to a determination under section 21B.” ; and

(b) in sub-paragraphs (2)(a) and (3)(a) after “2(4)” insert “or this paragraph”.

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(1) Diwygiwyd is-baragraff (5) gan adran 196(4) o Ddeddf 2008, a pharagraffau 25 a 30 o Atodlen 10 iddi.

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(1) Sub-paragraph (5) was amended by section 196(4) of, and paragraphs 25 and 30 of Schedule 10 to, the 2008 Act.

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ISBN 978-0-348-11009-8



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