WELSH STATUTORY INSTRUMENTS

2012 No. 1819 (W. 228)

COAST PROTECTION, WALES
ENVIRONMENTAL PROTECTION, WALES
FLOOD RISK MANAGEMENT, WALES

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

Made - - - - 10 July 2012

Coming into force in accordance with regulation 1(1)

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.

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.

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**).

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

(**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 c. 15.

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

Right to appeal a designation

3.—(1) An owner(**3**) 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.

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.

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