WELSH STATUTORY INSTRUMENTS

2017 No. 643 (W. 149)

ANCIENT MONUMENTS, WALES

The Scheduled Monuments (Review of Scheduling Decisions) (Wales) Regulations 2017

Made - - - -	*4 May 2017*
Laid before the National Assembly for Wales - -	*8 May 2017*
Coming into force - -	*31 May 2017*

The Welsh Ministers, in exercise of the powers conferred on them by section 1AE of, and Schedule A2 to, the Ancient Monuments and Archaeological Areas Act 1979(**1**), and the powers conferred on the Secretary of State by section 60 of that Act and now exercisable by the Welsh Ministers(**2**), make the following Regulations:

PART 1

Preliminary

Title, commencement and application

1.—(1) The title of these Regulations is the Scheduled Monuments (Review of Scheduling Decisions) (Wales) Regulations 2017 and they come into force on 31 May 2017.

(2) These Regulations apply to Wales.

Interpretation

2. In these Regulations—

"the 1979 Act" ("*Deddf 1979*") means the Ancient Monuments and Archaeological Areas Act 1979;

(**1**) 1979 c. 46; section 1AE was inserted by section 3 of the Historic Environment (Wales) Act 2016 (anaw 4) ("the 2016 Act"). Schedule A2 was inserted by Schedule 1 to that Act.

(**2**) The functions of the Secretary of State were transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 30 and 32 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

"applicant" ("*ceisydd*") means the owner or occupier of the monument making an application for a review;

"appointed person" ("*person penodedig*") means a person appointed by the Welsh Ministers under paragraph 1 of Schedule A2 to the 1979 Act(**3**);

"hearing" ("*gwrandawiad*") means a hearing held under section 1AE(5)(b) of the 1979 Act (review of decisions on certain amendments relating to the Schedule);

"inquiry" ("*ymchwiliad*") means a public local inquiry held under section 1AE(5)(a) of the 1979 Act;

"inquiry statement" ("*datganiad ymchwiliad*") has the meaning given in regulation 17(1)(a);

"interested person" ("*person â buddiant*") means any person, other than the applicant, notified or consulted under section 1AA of the 1979 Act (duty to consult on certain amendments relating to the Schedule)(**4**) about the Welsh Ministers' proposal to—

(a) include the monument to which a review relates in the Schedule; or

(b) make a material amendment of the kind described in section 1AA(5)(a) of the 1979 Act to the monument in the Schedule;

"review" ("*adolygiad*") means a review carried out by the Welsh Ministers under section 1AE of the 1979 Act;

"specified matters" ("*materion penodedig*") are, in relation to a review carried out by means of a hearing or an inquiry, the matters as specified by the appointed person to be considered at the hearing or inquiry;

"starting date" ("*dyddiad dechrau*") has the meaning given in regulation 6(1)(a);

"the Welsh Ministers' review statement" ("*datganiad Gweinidogion Cymru ar yr adolygiad*") has the meaning given in regulation 8(1).

PART 2

Initial Procedure: Decisions by appointed person, grounds for review and applications for review

Classes of review to be decided by an appointed person

3.—(1) A review applied for on either of the grounds set out in regulation 4 is prescribed as a class of review for the purposes of paragraph 1(1) of Schedule A2 to the 1979 Act.

(2) The decision on a review belonging to the class mentioned in paragraph (1) is to be made by an appointed person.

Grounds for review

4. An application for a review may not be made otherwise than on the ground that—

(a) the monument to which it relates is not of national importance; or

(b) a material amendment of the kind described in section 1AA(5)(a) of the 1979 Act in relation to the monument in the Schedule is inappropriate.

(**3**) Schedule A2 was inserted by section 3(3) of, and Schedule 1 to, the 2016 Act.
(**4**) Section 1AA was inserted by section 3 of the 2016 Act.

Applications for review

5.—(1) An application for a review must be made to the Welsh Ministers in accordance with this regulation.

(2) An application must consist of—

(a) the form published by the Welsh Ministers (or a form substantially to the like effect), including—

(i) the name of the monument to which the application relates;

(ii) the address of the monument or a description of the location of the land on which it is situated;

(iii) the name and address of the applicant;

(iv) a statement confirming whether the applicant is an owner or an occupier of the monument;

(v) the name and address of the representative of the applicant (if any) and confirmation as to whether any notice or other correspondence which is required by these Regulations to be sent to the applicant should be sent to the representative instead of the applicant;

(vi) a statement setting out the full particulars of the grounds for the review, including all the matters which the applicant intends to raise in the course of the review and which the applicant considers the appointed person should take into account in carrying out the review;

(vii) a statement as to which of the ways (or combination of ways) mentioned in section 1AE(5) of the 1979 Act the applicant considers the review should be carried out; and

(b) the following—

(i) all documents, materials and evidence which the applicant intends to rely on in the course of the review;

(ii) a copy of the notice served by the Welsh Ministers in relation to the monument under section 1AE(2) of the 1979 Act;

(iii) where the applicant is not an owner of the monument but an owner is known to the applicant, a certificate confirming that the owner of the monument has been informed of the applicant's intention to request the review;

(iv) where the applicant is not an owner of the monument and an owner is not known to the applicant, a signed certificate confirming that the applicant has taken all reasonable steps to identify any such owner but has been unable to do so.

(3) An application must be made within the period of 12 weeks beginning with the date on which notice was served on an owner or occupier of the monument under section 1AE(2) of the 1979 Act.

Notification of receipt of application for review and related requirements

6.—(1) The appointed person must as soon as practicable after receiving an application in accordance with regulation 5 advise the applicant and the Welsh Ministers in writing of—

(a) the date on which the review is to begin ("the starting date");

(b) the reference number allocated to the review; and

(c) the address to which written communications about the review are to be sent.

(2) The Welsh Ministers must within the period of three working days beginning with the day on which they received notification under paragraph (1) send to the applicant and the appointed person

a copy of any representation previously made to the Welsh Ministers under section 1AA of the 1979 Act by any interested person.

(3) In this regulation "working day" means a day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday.

Notice to interested persons and others

7.—(1) The appointed person must as soon as practicable after the expiration of the period referred to in regulation 6(2) give written notice of the review to—

(a) each interested person; and

(b) any other person or body that the appointed person considers appropriate.

(2) A notice under paragraph (1) must—

(a) state the name of the applicant and the address of the monument to which the review relates;

(b) set out the matters notified to the applicant under regulation 6(1);

(c) confirm that copies of any representations previously made to the Welsh Ministers under section 1AA of the 1979 Act by any interested person have been sent to the applicant by the Welsh Ministers;

(d) state that any such representations will be considered by the appointed person when making a decision on the review;

(e) state that further written representations may be made to the appointed person in accordance with regulation 9(2); and

(f) state how a copy of the application for review and other documents related to the review may be inspected.

Welsh Ministers' review statement

8.—(1) The Welsh Ministers must, within the period of four weeks beginning on the starting date, send to the applicant and the appointed person a statement setting out all the matters which the Welsh Ministers intend to raise in the course of the review and which they consider should be taken into account by the appointed person in carrying out the review ("the Welsh Ministers' review statement").

(2) The Welsh Ministers' review statement must be accompanied by all documents, materials and evidence which the Welsh Ministers intend to rely on in the course of the review.

(3) Subject to paragraph (5), the applicant must send to the appointed person two copies of any written comments they have about the Welsh Ministers' review statement so as to be received within the period of six weeks beginning on the starting date.

(4) Where written comments are sent to the appointed person under paragraph (3) or (5), the appointed person must, as soon as practicable after receipt, send a copy of any such comments to the Welsh Ministers.

(5) The requirement in paragraph (3) is to be construed as permitting the sending of only a single copy of any written comments for the purpose of satisfying that requirement in any case where the applicant elects to send the comments by means of electronic communications.

PART 3

Written representations

Written representations procedure

9.—(1) Subject to paragraph (2), the following documents will be deemed for the purposes of section 1AE(5)(c) of the 1979 Act to comprise the following persons' written representations in relation to the review—

(a) in the case of the applicant—

(i) an application made in accordance with regulation 5; and

(ii) any written comments made under regulation 8(3);

(b) in the case of the Welsh Ministers, the Welsh Ministers' review statement and accompanying documents, materials and evidence;

(c) in the case of an interested person, any written representations previously made under section 1AE of the 1979 Act by that person;

(d) in the case of any person or body given notice under regulation 7(1)(b), any written representations previously made by such person or body about the Welsh Ministers' proposal to—

(i) include the monument to which a review relates in the Schedule; or

(ii) make a material amendment of the kind described in section 1AA(5)(a) of the 1979 Act in relation to the monument in the Schedule.

(2) An interested person or any person or body given notice under regulation 7(1)(b) may, in addition to the representations referred to in paragraph (1)(c) or (d) (whichever the case may be), make further written representations under section 1AE(5)(c) of the 1979 Act, and where doing so must send three copies of such representations to the appointed person within the period of four weeks beginning on the starting date.

(3) The appointed person must, as soon as practicable after receipt of any representations made under paragraph (2), send a copy of such representations to the applicant and the Welsh Ministers.

(4) The applicant and the Welsh Ministers must send to the appointed person two copies of any written comments they have about any representations made under paragraph (1)(c), (d) or (2) so as to be received within the period of six weeks beginning on the starting date.

(5) Where the appointed person has received any written comments in accordance with paragraph (4), the appointed person must—

(a) in the case of any such comments received from the applicant, send a copy to the Welsh Ministers; and

(b) in the case of any such comments received from the Welsh Ministers, send a copy to the applicant.

(6) Where paragraphs (2) to (4) impose a requirement on any person or body to send more than a single copy of any written representations or comments (whichever the case may be) to any other person or body, such requirement is to be construed as permitting the sending of only a single version of that document for the purpose of satisfying that requirement in any case where the person upon whom the requirement is imposed elects to send the representations or comments by means of electronic communications.