WELSH STATUTORY INSTRUMENTS

2011 No. 865 (W.127)

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

The Flood and Coastal Erosion Risk Management Information Appeal (Wales) Regulations 2011

Made - - - -	*17 March 2011*
Coming into force - -	*6 April 2011*

These Regulations are made by the Welsh Ministers in exercise of the powers conferred by sections 15(8)(**1**), and 48(2) of the Flood and Water Management Act 2010(**2**), in relation to penalties issued by—

(a) lead local flood authorities for areas in Wales,

(b) the Environment Agency in respect of a failure to comply with a request in connection with a flood or coastal erosion risk management function in relation to Wales, and

(c) the Welsh Ministers.

The Administrative Justice and Tribunals Council has been consulted, and that Council has consulted the Welsh Committee, in accordance with section 44 of and paragraph 24 of Schedule 7 to the Tribunals, Courts and Enforcement Act 2007(**3**).

A draft of this instrument has been approved by a resolution of the National Assembly for Wales pursuant to section 15(12) of the Flood and Water Management Act 2010.

Citation, commencement and application

1. These Regulations—

(a) may be cited as the Flood and Coastal Erosion Risk Management Information Appeal (Wales) Regulations 2011;

(b) come into force on 6 April 2011; and

(c) apply in relation to penalties issued by—

(**1**) The power is conferred by section 15(8) of the Flood and Water Management Act 2010 on "the Minister", and section 15(10) of that Act defines "the Minister" for the purposes of the section.
(**2**) 2010 c. 29.
(**3**) 2007 c. 15.

(i) lead local flood authorities for areas in Wales;

(ii) the Environment Agency in respect of a failure to comply with a request in connection with a flood or coastal erosion risk management function in relation to Wales; and

(iii) the Welsh Ministers.

Interpretation

2. In these Regulations—

"the Act" ("*y Ddeddf*") means the Flood and Water Management Act 2010;

"enforcement notice" ("*hysbysiad gorfodi*") means a notice given under section 15(1) of the Act in respect of a failure to comply with a request under section 14(1) or (3) of the Act to provide information;

"penalty notice" ("*hysbysiad o gosb*") means a notice from an authority under section 15(3) of the Act which imposes a penalty on a person who fails to provide information specified in an enforcement notice in the specified period.

Right of Appeal

3. A person on whom a penalty is imposed by a penalty notice may appeal to the First-tier Tribunal against the penalty.

Grounds for appeal

4. For the purposes of rule 22(2)(g) of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009(**4**), the grounds for appeal are–

(a) that the decision to serve the penalty notice was based on an error of fact;

(b) that the decision was wrong in law;

(c) that the amount of the penalty was unreasonable;

(d) any other reason.

Procedure

5. The notice of appeal(**5**) under rule 22 of the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 must (in addition to complying with the requirements of those Rules) be accompanied by—

(a) a copy of the enforcement notice;

(b) copies of any representations made under section 15(2)(c) of the Act;

(c) a copy of the penalty notice.

Effect of Appeal

6. An authority that receives a notice of appeal from a person on whom it has imposed a penalty must not take action to recover the penalty as a debt until the appeal is either determined or withdrawn.

(**4**) S.I. 2009/1976.
(**5**) *See* rule 1(3) of S.I. 2009/1976 for the meaning of "notice of appeal".