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WELSH STATUTORY INSTRUMENTS

2009 No. 3342 (W.293)

TOWN AND COUNTRY PLANNING, WALES

The Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009

Made - - - -	*16 December 2009*
Laid before the National Assembly for Wales - -	*17 December 2009*
Coming into force - -	*8 January 2010*

The Welsh Ministers, having been designated [F1] for the purposes of section 2(2) of the European Communities Act 1972 [F2] in relation to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, in so far as it concerns town and country planning, make the following Regulations:

F1 The Welsh Ministers are so designated by S.I. 2007/1679.

F2 1972 c. 68. Section 2(2) includes power to make certain provision in relation to the European Economic Area by virtue of section 2(5) of the European Economic Area Act 1993 (1993 c. 51).

PART 1

General

Title, commencement and application

1.—(1) The title of these Regulations is the Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009.

(2) These Regulations come into force on 8 January 2010.

(3) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations—

"the Act" ("*y Ddeddf*") means the Town and Country Planning Act 1990 (c. 8) and references to sections are references to sections of that Act;

"the 1991 Act" ("*Deddf 1991*") means the Planning and Compensation Act 1991 (c. 34);

"the 1995 Act" ("*Deddf 1995*") means the Environment Act 1995 (c. 25);

[[F3]"the 2016 Regulations"("*Rheoliadau 2016*") means the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016;**]**

"any other information" ("*unrhyw wybodaeth arall*") means any substantive information provided by an applicant, appellant or operator which is relevant to the determination of the EIA application other than—

(a) screening information;

(b) scoping information;

(c) further information;

(d) evidence.

"any particular person" ("*unrhyw berson penodol*") includes any non-governmental organisation promoting environmental protection;

"the consultation bodies" ("*y cyrff ymgynghori*") means—

(a) any body which the relevant mineral planning authority is required to consult or would, if an application for planning permission for the development in question were before it, be required to consult by virtue of article 10 (consultations before the grant of permission) of the Order or of any direction under that article; and

(b) the following bodies if not included by virtue of sub-paragraph (a)—

(i) any principal council for the area where the land is situated, if not the relevant mineral planning authority;

(ii) **[**[F4]the Natural Resources Body for Wales**]**;

(iii) [F5]...

(iv) other bodies designated by statutory provision as having specific environmental responsibilities and which the relevant mineral planning authority or the Welsh Ministers, as the case may be, consider are likely to have an interest in the application;

[[F6]"the Directive" ("*y Gyfarwyddeb*") means Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment as adopted on 13 December 2011;**]**

"draft environmental statement" ("*datganiad amgylcheddol drafft*") has the meaning attributed to it in regulation 17(2), 17(3) and 17(4);

"EEA State" ("*Gwladwriaeth AEE*") means a State party to the Agreement on the European Economic Area;

"EIA application" ("*cais AEA*") means an undetermined ROMP application for EIA development;

"EIA development" ("*datblygiad AEA*") means ROMP development in respect of which a negative screening direction has not been made;

"environmental information" ("*gwybodaeth amgylcheddol*") means the environmental statement together with any further information, evidence, any other information, any representations made by any body required by these Regulations to be invited to make representations, and any representations duly made by any other person about the environmental effects of the EIA development;

"environmental statement" ("*datganiad amgylcheddol*") means a statement—

(a) presented in an appropriate form;

(b) that includes at least the information referred to in Part 2 of Schedule 2;

(c) that includes such of the information referred to in Part 1 of Schedule 2 as is specified in the relevant scoping decision;

"exempt development" ("*datblygiad esempt*") means ROMP development in respect of which the Welsh Ministers have made a direction under regulation 9(1);

"further information" ("*gwybodaeth bellach*") means, in respect of any particular EIA application, information which the relevant mineral planning authority or the Welsh Ministers reasonably consider—

(a) relates to the main effects of the EIA development; or

(b) is of material relevance to the determination of conditions to which the planning permission is to be subject,

and which, having regard in particular to current knowledge and methods of assessment, can reasonably be required to be compiled;

"the land" ("*y tir*") means the land to which the planning permission which is the subject of the ROMP application relates or, where more than one planning permission is the subject of a ROMP application, the aggregate of the land to which the planning permissions which are the subject of the ROMP application relate;

"by local advertisement" ("*drwy hysbysebu yn lleol*"), in relation to a notice, means—

(a) by publication of the notice in a newspaper circulating in the locality in which the land to which the application or appeal relates is situated; and

(b) where the local planning authority maintains a website for the purpose of advertisement of applications, by publication of the notice on the website;

"minerals development" ("*datblygiad mwynau*") means development consisting of the winning and working of minerals, or involving the depositing of mineral waste;

"negative screening direction" ("*cyfarwyddyd sgrinio negyddol*") means a direction made pursuant to regulation 9 to the effect that ROMP development is exempt development, or regulation 11, to the effect that ROMP development is not EIA development;

"operator" ("*gweithredwr*") means, in respect of any particular undetermined ROMP application, any person other than the applicant or appellant, who is entitled to carry out any of the ROMP development which is authorised by the planning permission to which the application relates;

"the Order" ("*y Gorchymyn*") means the Town and Country Planning (General Development Procedure) Order 1995 [F7];

"other relevant information" ("*gwybodaeth berthnasol arall*") has the meaning ascribed to it in regulation 36(5);

"principal council" ("*prif gyngor*") has the meaning given by sub-section (1) of section 270 (general provisions as to interpretation) of the Local Government Act 1972 [F8];

"positive screening direction" ("*cyfarwyddyd sgrinio cadarnhaol*") means a direction made pursuant to regulation 11, to the effect that ROMP development is EIA development;

"register" ("*cofrestr*") means a register kept pursuant to section 69 (registers of applications etc) and "appropriate register" ("*cofrestr briodol*") means the register on which particulars of an undetermined ROMP application fall to be placed by virtue of section 69, as applied by regulation 47(1), and regulation 48(1);

"relevant mineral planning authority" ("*awdurdod cynllunio mwynau perthnasol*") means the body to which it falls or would, but for a direction under paragraph—

(a) 7 of Schedule 2 to the 1991 Act;

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(b) 13 of Schedule 13 to the 1995 Act; or

(c) 8 of Schedule 14 to the 1995 Act,

fall to determine the undetermined ROMP application in question;

"the relevant scoping decision" ("*penderfyniad cwmpasu perthnasol*") means whichever of the following was last adopted or made—

(a) the scoping opinion notified under regulation 12(7);

(b) where the applicant has requested a scoping direction pursuant to regulation 12(8), the scoping direction notified pursuant to regulation 13(12);

(c) the scoping direction notified pursuant to regulation 14(13);

(d) any scoping direction notified under regulation 15(13)

"ROMP application" ("*cais AHGM*") means an application to a relevant mineral planning authority to determine the conditions to which a planning permission is to be subject under paragraph—

(a) 2(2) of Schedule 2 to the 1991 Act (registration of old mining permissions);

(b) 9(1) of Schedule 13 to the 1995 Act (review of old mineral planning permissions); or

(c) 6(1) of Schedule 14 to the 1995 Act (periodic review of mineral planning permissions);

"ROMP development" ("*datblygiad AHGM*") means development which has yet to be carried out and which is authorised by a planning permission which is the subject of an undetermined ROMP application;

"scoping direction" ("*cyfarwyddyd cwmpasu*") means a written statement of the opinion of the Welsh Ministers made pursuant to regulation 13, 14 or 15, as to the scope of the information referred to in Part I of Schedule 2 which they consider to be relevant to—

(a) the specific characteristics of the particular EIA development to which the direction relates;

(b) the specific characteristics of development of the type concerned;

(c) the environmental features likely to be affected by the EIA development,

and which, having regard in particular to current knowledge and methods of assessment, the Welsh Ministers consider can reasonably be required to be compiled;

"scoping information" ("*gwybodaeth gwmpasu*") has the meaning attributed to it in regulations 12(2), 13(4), 14(5) and 15(5);

"scoping opinion" ("*barn gwmpasu*") means a written statement of the opinion of the relevant mineral planning authority adopted pursuant to regulation 12 as to the scope of the information referred to in Part I of Schedule 2 which the authority considers to be relevant to—

(a) the specific characteristics of the particular EIA development to which the opinion relates;

(b) the specific characteristics of development of the type concerned;

(c) the environmental features likely to be affected by the EIA development,

and which, having regard in particular to current knowledge and methods of assessment, the authority considers can reasonably be required to be compiled;

"screening direction" ("*cyfarwyddyd sgrinio*") means a direction made pursuant to regulation 9 to the effect that ROMP development is exempt development, or regulation 11, as to whether ROMP development is EIA development;

"screening information" ("*gwybodaeth sgrinio*") has the meaning ascribed to it in regulation 11(3);

"sensitive area" ("*ardal sensitif*") means any of the following—

(a) land notified under sub-section (1) of section 28 (areas of special scientific interest) of the Wildlife and Countryside Act 1981 [F9];

(b) land to which sub-section (3) of section 29 (nature conservation orders) of the Wildlife and Countryside Act 1981 applies;

(c) an area to which paragraph (u)(ii) in the table in article 10 of the Order applies;

(d) a National Park within the meaning of the National Parks and Access to the Countryside Act 1949 [F10];

(e) a property appearing on the World Heritage List kept under Article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage;

(f) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979 [F11];

(g) an area of outstanding natural beauty designated as such by an order made by **[**[F12]the Natural Resources Body for Wales**]** under section 82 (designation of areas) of the Countryside and Rights of Way Act 2000 [F13] as confirmed by the Welsh Ministers [F14];

(h) a European site within the meaning of **[**[F15]regulation 8 of the Conservation of Habitats and Species Regulations 2017**]**;

"specified information" ("*gwybodaeth benodedig*") has the meaning given in regulation 18(6)(a);

"suspension date" ("*dyddiad atal*") means the date on which, in accordance with any of the following provisions, a planning permission ceases to authorise any minerals development—

(a) regulation 11(9);

(b) regulation 12(5);

(c) regulation 13(10);

(d) regulation 14(11);

(e) regulation 15(11);

(f) regulation 17(8);

(g) regulation 18(10);

(h) regulation 18(17);

(i) regulation 19(2);

(j) regulation 26(5);

(k) regulation 27(5);

(l) regulation 28(7);

(m) regulation 29(2);

"unauthorised minerals development" ("*datblygiad mwynau diawdurdod*") means minerals development which has ceased to be authorised by a planning permission pursuant to—

(a) regulation 11(9);

(b) regulation 12(5);

(c) regulation 13(10);

(d) regulation 14(11);

(e) regulation 15(11);

(f) regulation 17(8);