OFFERYNNAU STATUDOL CYMRU

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CYNLLUNIO GWLAD A THREF, CYMRU

Rheoliadau Cynllunio Gwlad a Thref (Asesu Effeithiau Amgylcheddol) (Diwygio) (Cymru) 2008

Gwnaed - - - -	*31 Awst 2008*
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru - -	*2 Medi 2008*
Yn dod i rym - -	*6 Hydref 2008*

Mae Gweinidogion Cymru wedi eu dynodi(**1**) at ddibenion adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972(**2**) mewn perthynas â'r gofyniad i asesu'r effaith ar yr amgylchedd y mae prosiectau sy'n debygol o gael effeithiau arwyddocaol ar yr amgylchedd yn ei chael, i'r graddau y mae a wnelo â chynllunio gwlad a thref.

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a freiniwyd ynddynt gan adran 2(2) o Ddeddf y Cymunedau Ewropeaidd 1972 ac a roddwyd gan adran 333 o Ddeddf Cynllunio Gwlad a Thref 1990(**3**) a pharagraff 1 o Atodlen 6 iddi.

Enwi, cychwyn, rhychwantu a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Cynllunio Gwlad a Thref (Asesu Effeithiau Amgylcheddol) (Diwygio) (Cymru) 2008.

(2) Daw'r Rheoliadau hyn i rym ar 6 Hydref 2008.

(3) Mae'r Rheoliadau hyn yn rhychwantu Cymru a Lloegr ac yn gymwys o ran Cymru.

(**1**) O.S. 2007/1679.

(**2**) 1972 p.68. Estynnwyd pwerau galluogi adran 2(2) yn rhinwedd diwygiad adran 1(2) gan adran 1 o Ddeddf yr Ardal Economaidd Ewropeaidd 1993 (p.51).

(**3**) 1990 p.8; diwygiwyd paragraff 1 o Atodlen 6 gan adran 120 o Ddeddf yr Amgylchedd 1995 (p.25) a pharagraff 44 o Atodlen 22 iddi. Mae'r pwerau hyn bellach wedi eu breinio yng Ngweinidogion Cymru i'r graddau y maent yn arferadwy o ran Cymru. Trosglwyddwyd hwy gynt i Gynulliad Cenedlaethol Cymru gan erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999, O.S. 1999/672: gweler y cofnod yn Atodlen 1 ar gyfer Deddf Cynllunio Gwlad a Thref 1990 fel y'i hamnewidiwyd gan erthygl 4 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 2000 (O.S. 2000/253) a chan baragraff (d) o Atodlen 3 iddo. Yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (p.32) a pharagraff 30 o Atodlen 11 iddi, fe'u trosglwyddwyd i Weinidogion Cymru.

Diwygio Rheoliadau Cynllunio Gwlad a Thref (Asesu Effeithiau Amgylcheddol) (Cymru a Lloegr) 1999

2. Mae Rheoliadau Cynllunio Gwlad a Thref (Asesu Effeithiau Amgylcheddol) (Cymru a Lloegr) 1999(**4**) wedi eu diwygio yn unol â rheoliadau 3 i 12.

Diwygiadau i Ran 1 (cyffredinol)

3.—(1) Yn rheoliad 1(2) yn lle "paragraph (3)" rhodder "paragraphs (3) and (4)".

(2) Yn rheoliad 2(1) (dehongli)—

(a) mewnosoder yn y lle priodol—

> ""subsequent application" means an application for approval of a matter where the approval—
>
> (a) is required by or under a condition to which a planning permission is subject; and
>
> (b) must be obtained before all or part of the development permitted by the planning permission may be begun;
>
> "subsequent consent" means consent granted pursuant to a subsequent application.";

(b) yn lle'r diffiniad o "EIA application" rhodder—

> ""EIA application" means—
>
> (a) an application for planning permission for EIA development; or
>
> (b) a subsequent application in respect of EIA development;"; and

(c) yn lle'r diffiniad o "Schedule 1 application and Schedule 2 application" rhodder—

> ""Schedule 1 application" means—
>
> (a) an application for planning permission for Schedule 1 development; or
>
> (b) a subsequent application in respect of Schedule 1 development; and
>
> "Schedule 2 application" means—
>
> (a) an application for planning permission for Schedule 2 development; or
>
> (b) a subsequent application in respect of Schedule 2 development;".

(3) Yn rheoliad 2(6)—

(a) yn lle "its" rhodder "their";

(b) ar ôl "these Regulations" mewnosoder "except regulation 37"; ac

(c) yn lle "the National Assembly for Wales" rhodder "the Welsh Ministers".

(4) Yn lle rheoliad 3 (gwahardd rhoi caniatâd cynllunio heb ystyried gwybodaeth amgylcheddol) rhodder—

> "**Prohibition on granting planning permission or subsequent consent without consideration of environmental information**
>
> **3.**—(1) This regulation applies—
>
> (a) to every application for planning permission for EIA development received by the authority with whom it is lodged on or after the commencement of these Regulations;

(**4**) O.S. 1999/293. Gwnaed diwygiadau perthnasol gan O.S. 2000/2867, O.S 2006/3099 ac O.S. 2006/3295.

(b) to every application for planning permission for EIA development lodged by an authority pursuant to regulation 3 or 4 (applications for planning permission) of the General Regulations on or after that date;

(c) to every subsequent application in respect of EIA development received by the authority with whom it is lodged on or after the commencement of these Regulations but which was not determined by 6 October 2008; and

(d) to every subsequent application in respect of EIA development lodged by an authority pursuant to regulation 11 of the General Regulations on or after the commencement of these Regulations but which was not determined by 6 October 2008;

and for the purposes of this paragraph, the date of receipt of an application by an authority shall be determined in accordance with paragraph (3) of article 20 (time periods for decision) of the Order.

(2) The relevant planning authority or the Secretary of State or an inspector shall not grant planning permission or subsequent consent pursuant to an application to which this regulation applies unless they have first taken the environmental information into consideration, and they shall state in their decision that they have done so.".

Diwygiadau i Ran 2 (sgrinio)

4. Yn rheoliad 5(2) (ceisiadau am farn sgrinio gan yr awdurdod cynllunio lleol) ar ôl is-baragraff (a) mewnosoder—

"(aa) sufficient information to enable the relevant planning authority to identify any planning permission granted for the development in respect of which a subsequent application has been made;".

Diwygiadau i Ran 3 (gweithdrefnau ynghylch ceisiadau am ganiatâd cynllunio)

5.—(1) Yn lle rheoliad 7 (cais a wneir i awdurdod cynllunio lleol heb ddatganiad amgylcheddol) rhodder—

"**Application made to a local planning authority without an environmental statement**

7.—(1) Where it appears to the relevant planning authority that—

(a) an application which is before them for determination is a Schedule 1 application or Schedule 2 application; and

(b) the development in question—

(i) has not been the subject of a screening opinion or screening direction; or

(ii) in the case of a subsequent application, was the subject of a screening opinion or direction before planning permission was granted to the effect that it is not EIA development; and

(c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (3) and (4) of regulation 5 shall apply as if the receipt or lodging of the application were a request made under regulation 5(1).

(2) Where an EIA application which is before a local planning authority for determination is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, the authority shall notify the applicant in writing that the submission of an environmental statement is required.

(3) Where the relevant planning authority is aware that any particular person is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of a site notice or by local advertisement, the relevant planning authority shall notify the applicant of any such person.

(4) An authority shall notify the applicant in accordance with paragraph (2) within three weeks beginning with the date of receipt of the application or such longer period as may be agreed in writing with the applicant; but where the Secretary of State, after the expiry of that period of three weeks or of any longer period so agreed, makes a screening direction to the effect that the development is EIA development, the authority shall so notify the applicant within seven days beginning with the date the authority received a copy of that screening direction.

(5) An applicant receiving a notification pursuant to paragraph (2) may, within three weeks beginning with the date of the notification, write to the authority stating—

(a) that he accepts their view and is providing an environmental statement; or

(b) unless the condition referred to in paragraph (6) is satisfied, that he is writing to the Secretary of State to request a screening direction.

(6) For the purpose of paragraph (5)(b) the condition is—

(a) if the application referred to in paragraph (2) is an application for planning permission, that the Secretary of State has made a screening direction in respect of the development;

(b) if the application referred to in paragraph (2) is a subsequent application, that the Secretary of State has made a screening direction subsequent to that application in respect of the development.

(7) If the applicant does not write to the authority in accordance with paragraph (5), the permission or subsequent consent sought shall, unless the condition referred to in paragraph (8) is satisfied, be deemed to be refused at the end of the relevant three week period, and the deemed refusal—

(a) shall be treated as a decision of the authority for the purposes of paragraph (4)(c) of article 25 (register of applications) of the Order; but

(b) shall not give rise to an appeal to the Secretary of State by virtue of section 78 (right to appeal against planning decisions and failure to take such decisions).

(8) For the purpose of paragraph (7) the condition is—

(a) if the application referred to in paragraph (2) is an application for planning permission, that the Secretary of State has made a screening direction to the effect that the development is not EIA development;

(b) if the application referred to in paragraph (2) is a subsequent application, that the Secretary of State has made a screening direction subsequent to that application, to the effect that the development is not EIA development.

(9) An authority which has given a notification in accordance with paragraph (2) shall, unless the Secretary of State makes a screening direction to the effect that the development is not EIA development, determine the relevant application only by refusing planning permission or subsequent consent if the applicant does not submit an environmental statement and comply with regulation 14(5).

(10) A person who requests a screening direction pursuant to paragraph (5)(b) shall send to the Secretary of State with his request copies of—

(a) his application;

(b) all documents sent to the authority as part of the application;

(c) all correspondence between the applicant and the authority relating to the proposed development;

(d) a copy of any planning permission granted for the development; and

(e) in the case of a subsequent application, documents or information relating to the planning permission granted for the development that are relevant to the application,

and paragraphs (2) to (5) of regulation 6 shall apply to a request under this regulation as they apply to a request made pursuant to regulation 5(6).".

(2) Yn rheoliad 8 (cais a atgyfeirir i'r Ysgrifennydd Gwladol heb ddatganiad amgylcheddol)—

(a) ym mharagraff (1) hepgorer y geiriau "for planning permission";

(b) yn lle paragraff (1)(b) rhodder—

"(b) the development in question—

(i) has not been the subject of a screening opinion or screening direction; or

(ii) in the case of a subsequent application, was the subject of a screening opinion or direction before planning permission was granted to the effect that it is not EIA development; and"; a

(c) ym mharagraff (6) ar ôl "permission" mewnosoder "or subsequent consent".

(3) Yn rheoliad 9 (apêl i'r Ysgrifennydd Gwladol heb ddatganiad amgylcheddol)—

(a) yn lle paragraff (1)(b) rhodder—

"(b) the development in question—

(i) has not been the subject of a screening opinion or screening direction; or

(ii) in the case of a subsequent application, was the subject of a screening opinion or direction before planning permission was granted to the effect that it is not EIA development; and"; a

(b) ym mharagraffau (2) a (7) ar ôl "permission" mewnosoder "or subsequent consent".

Diwygiadau i Ran 4 (llunio datganiadau amgylcheddol)

6.—(1) Yn rheoliad 10 (barnau cwmpasu'r awdurdod cynllunio lleol)—

(a) ar ôl paragraff (2)(a) mewnosoder—

"(aa) sufficient information to enable the relevant planning authority to identify any planning permission granted for the development in respect of which a subsequent application has been made;"; a

(b) ym mharagraff (9) ar ôl "planning permission" mewnosoder "or a subsequent application".

(2) Yn rheoliad 11 (cyfarwyddiadau cwmpasu'r Ysgrifennydd Gwladol) ym mharagraff (6) ar ôl "planning permission" mewnosoder "or a subsequent application".

(3) Yn rheoliad 12(3)(b) (gweithdrefn i hwyluso llunio datganiadau amgylcheddol) yn lle "7(4)(a)" rhodder "7(5)(a)".

Diwygiadau i Ran 5 (cyhoeddusrwydd a gweithdrefnau yn sgîl cyflwyno datganiadau amgylcheddol)

7.—(1) Yn rheoliad 13 (y weithdrefn pan fo datganiad amgylcheddol yn cael ei gyflwyno i awdurdod cynllunio lleol) ar ôl paragraff (3) mewnosoder—

"(3A) Where an applicant submits an environmental statement to the authority in accordance with paragraph (1), the provisions of article 8 of and Schedule 3 to the Order (publicity for applications for planning permission) shall apply to a subsequent application