OFFERYNNAU STATUDOL CYMRU

2006 Rhif 2988 (Cy.277)

DIOGELU'R AMGYLCHEDD, CYMRU

Rheoliadau Tir a Halogwyd yn Ymbelydrol (Addasu Deddfiadau) (Cymru) 2006

Wedi'u gwneud - -	*15 Tachwedd 2006*
	yn unol â rheoliad
Yn dod i rym - -	*1(2)*

Mae Cynulliad Cenedlaethol Cymru ("y Cynulliad Cenedlaethol"), drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol gan adrannau 78A(9) a 78YC o Ddeddf Diogelu'r Amgylchedd 1990 ("Deddf 1990")(**1**) ac sydd bellach yn arferadwy o ran Cymru gan y Cynulliad Cenedlaethol(**2**), yn gwneud y Rheoliadau a ganlyn:

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Tir a Halogwyd yn Ymbelydrol (Addasu Deddfiadau) (Cymru) 2006.

(2) Daw'r Rheoliadau hyn i rym—

(a) i'r graddau y mae Rhan 2A o Ddeddf 1990 yn rhoi'r pŵer i'r Cynulliad Cenedlaethol i wneud rheoliadau neu orchmynion, i roi cyfarwyddiadau neu i gyhoeddi canllawiau, neu i'r graddau y mae Rhan 2A yn darparu mewn perthynas ag arfer unrhyw bŵer o'r fath, ar 16 Tachwedd 2006; a

(b) ar gyfer pob diben arall, ar 10 Rhagfyr 2006.

(3) Mae'r Rheoliadau hyn yn gymwys o ran Cymru.

Dehongli

2. Yn y Rheoliadau hyn, ystyr "Rhan 2A" yw Rhan 2A o Ddeddf 1990 ac, oni nodir fel arall, mae unrhyw gyfeiriad yn y Rheoliadau hyn at adran â Rhif yn gyfeiriad at yr adran o Ddeddf 1990 sy'n dwyn y Rhif hwnnw.

(**1**) 1990 p.43. Mewnosodwyd adrannau 78A i 78YC gan adran 57 o Ddeddf yr Amgylchedd 1995 (p.25). *Gweler* y diffiniad o "prescribed" a "regulations" yn adran 78A(9).

(**2**) *Gweler* erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672), ac Atodlen 1 i'r Gorchymyn hwnnw.

Addasu Rhan 2A

3. I'r graddau y mae niwed i'w briodoli i unrhyw ymbelydredd sy'n perthyn i unrhyw sylwedd, mae Rhan 2A yn gymwys mewn cysylltiad â'r niwed, ac at ddibenion ymdrin ag ef, ac mae'n effeithiol gyda'r addasiadau a wneir gan reoliadau 4 i 18.

Dehongli addasiadau

4.—(1) Mae'r diffiniadau a geir yn yr Atodlen i'r Rheoliadau hyn (sy'n ailadrodd diffiniadau a geir yn Erthygl 1 o'r Gyfarwyddeb) yn gymwys at ddiben dehongli'r addasiadau a wneir i Ran 2A gan y Rheoliadau hyn.

(2) Yn y rheoliad hwn ac yn yr Atodlen, ystyr "the Directive" yw Cyfarwyddeb y Cyngor 96/29/Euratom(**3**), sy'n gosod safonau diogelwch sylfaenol ar gyfer diogelu iechyd gweithwyr a'r cyhoedd yn gyffredinol rhag y peryglon sy'n deillio o ymbelydredd ïoneiddio ac, at ddibenion yr Atodlen i'r Rheoliadau hyn, mae i "this Directive" yr un ystyr.

(3) Mae unrhyw gyfeiriad yn yr Atodlen i'r Rheoliadau hyn at "Article" neu "Title" â Rhif yn gyfeiriad at yr Erthygl neu'r Teitl sy'n dwyn y Rhif hwnnw yn y Gyfarwyddeb.

Adran 78A (rhagarweiniol)

5.—(1) Mae adran 78A (rhagarweiniol) yn effeithiol gyda'r addasiadau canlynol.

(2) Yn lle is-adran (2), rhodder—

"(2) "Contaminated land" is any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that—

(a) harm is being caused; or

(b) there is a significant possibility of harm being caused;

and in determining whether any land appears to be such land, a local authority shall, subject to subsection (5) below, act in accordance with guidance issued by the Secretary of State in accordance with section 78YA below with respect to the manner in which that determination is to be made.".

(3) Yn lle is-adran (4), rhodder—

"(4) "Harm" means lasting exposure to any person resulting from the after-effects of a radiological emergency, past practice or past work activity.".

(4) Yn lle is-adran (5), rhodder—

"(5) The questions—

(a) whether harm is being caused, and

(b) whether the possibility of harm being caused is "significant",

shall be determined in accordance with guidance issued for the purpose by the Secretary of State in accordance with section 78YA below.".

(5) Yn lle is-adran (6), rhodder—

"(6) Without prejudice to the guidance that may be issued under subsection (5) above—

(a) guidance under paragraph (a) of that subsection may make provision for different degrees and descriptions of harm;

(b) guidance under paragraph (b) of that subsection may make provision for different degrees of possibility to be regarded as "significant" (or as not being "significant") in relation to different descriptions of harm.".

(**3**) OJ Rhif L159, 29.06.1996, t.1.

(6) Yn lle is-adran (7), rhodder—

"(7) "Remediation" means—

(a) the doing of anything for the purpose of assessing the condition of—

(i) the contaminated land in question; or

(ii) any land adjoining or adjacent to that land;

(b) the doing of any works, the carrying out of any operations or the taking of any steps in relation to any such land for the purpose—

(i) of preventing or minimising, or remedying or mitigating the effects of, any harm by reason of which the contaminated land is such land; or

(ii) of restoring the land to its former state; or

(c) the making of subsequent inspections from time to time for the purpose of keeping under review the condition of the land;

and cognate expressions shall be construed accordingly.

(7A) For the purpose of paragraph (b) of subsection (7) above, "the doing of any works, the carrying out of any operations or the taking of any steps in relation to any such land" shall include ensuring that—

(a) any such area is demarcated;

(b) arrangements for the monitoring of the harm are made;

(c) any appropriate intervention is implemented; and

(d) access to or use of land or buildings situated in the demarcated area is regulated.".

(7) Hepgorir is-adran (8).

(8) Yn is-adran (9)—

(a) hepgorer y diffiniadau o "controlled waters" a "pollution of controlled waters";

(b) ar ôl y diffiniad o "required to be designated as a special site" ychwaneger—

""Secretary of State", in relation to Wales, means the National Assembly for Wales;"; ac

(c) yn lle'r diffiniad o "substance", rhodder—

""substance" means, whether in solid or liquid form or in the form of a gas or vapour, any substance which contains radionuclides which have resulted from the after-effects of a radiological emergency or which are or have been processed as part of a past practice or past work activity, but shall not include radon gas or the following radionuclides: Po-218, Pb-214, At-218, Bi-214, Rn-218, Po-214 and TI-210;".

Adran 78B (adnabod tir halogedig)

6.—(1) Mae adran 78B (adnabod tir halogedig) yn effeithiol gyda'r addasiadau canlynol.

(2) Yn lle is-adran (1), rhodder—

"(1) Where a local authority considers that there are reasonable grounds for believing that any land may be contaminated, it shall cause the land to be inspected for the purpose of—

(a) identifying whether it is contaminated land; and

(b) enabling the authority to decide whether the land is land which is required to be designated as a special site.

(1A) The fact that substances have been or are present on the land shall not of itself be taken to be reasonable grounds for the purposes of subsection (1).".

Adran 78C (adnabod a dynodi safleoedd arbennig)

7.—(1) Mae adran 78C (adnabod a dynodi safleoedd arbennig) yn effeithiol gyda'r addasiadau canlynol.

(2) Yn is-adran (10), yn lle paragraffau (a) a (b) rhodder—

"(a) whether land of the description in question appears to the Secretary of State to be land which is likely to be in such a condition, by reason of substances in, on or under the land that serious harm would or might be caused; or

(b) whether the appropriate Agency is likely to have expertise in dealing with the kind of harm by reason of which land of the description in question is contaminated land.".

Adran 78E (dyletswydd ar yr awdurdod gorfodi i wneud adfer tir halogedig yn ofynnol etc)

8.—(1) Mae adran 78E (dyletswydd ar yr awdurdod gorfodi i wneud adfer tir halogedig yn ofynnol etc) yn effeithiol gyda'r addasiadau canlynol.

(2) Yn is-adran (2), hepgorer "or waters".

(3) Yn lle is-adran (4), rhodder—

"(4) Subject to subsection (4A), the only things by way of remediation which the enforcing authority may do, or require to be done, under or by virtue of this Part are things which it considers reasonable, having regard to—

(a) the cost which is likely to be involved; and

(b) the seriousness of the harm in question.

(4A) Where remediation includes an intervention, that part of the remediation which consists of an intervention may only be considered reasonable—

(a) where the reduction in detriment due to radiation is sufficient to justify any adverse effects and costs, including social costs, of the intervention; and

(b) where the form, scale and duration of the intervention is optimised.

(4B) For the purpose of subsection (4A), the form, scale and duration of the intervention shall be taken to be optimised if the benefit of the reduction in health detriment less the detriment associated with the intervention is maximised.".

(4) Yn is-adran (5), ym mharagraff (b), hepgorer ", or waters are,".

Adran 78F (penderfynu pwy yw'r person priodol i fod yn gyfrifol am adfer)

9. Mae is-adran (9) o adran 78F (penderfynu pwy yw'r person priodol i fod yn gyfrifoldeb am adfer) yn effeithiol gyda'r geiriau "or radioactive decay" wedi'u mewnosod ar ôl "biological process".

Adran 78G (caniatáu hawliau mynediad ac iawndal mewn cysylltiad â hwy etc)

10.—(1) Mae adran 78G (caniatáu hawliau mynediad ac iawndal mewn cysylltiad â hwy etc) yn effeithiol gyda'r addasiadau canlynol.

(2) Yn is-adran (2), yn lle "any of the relevant land or waters", rhodder "any relevant land".

(3) Yn is-adran (3), ym mharagraff (a), hepgorer "or waters".

(4) Yn is-adran (4), hepgorer "or serious pollution of controlled waters,".

(5) Yn lle is-adran (7), rhodder—

"(7) In this section, "relevant land" means—

(a) the contaminated land in question; or

(b) any land adjoining or adjacent to that land.".

Adran 78H (cyfyngiadau a gwaharddiadau ar gyflwyno hysbysiadau adfer)

11. Mae is-adran (4) o adran 78H (cyfyngiadau a gwaharddiadau ar gyflwyno hysbysiadau adfer) yn effeithiol gyda'r geiriau ", or serious pollution of controlled waters," wedi'u hepgor.

Adran 78J (cyfyngiadau ar atebolrwydd mewn perthynas â llygru dyfroedd a reolir)

12. Hepgorer adran 78J.

Adran 78K (atebolrwydd o ran sylweddau sy'n halogi ac sy'n gollwng i dir arall)

13.—(1) Mae adran 78K (atebolrwydd o ran sylweddau sy'n halogi ac sy'n gollwng i dir arall) yn effeithiol gyda'r addasiadau canlynol.

(2) Yn lle is-adran (3), rhodder—

"(3) Where this subsection applies, no remediation notice shall require a person—

(a) who is the owner or occupier of land A, and

(b) who has not caused or knowingly permitted the substances in question to be in, on or under that land,

to do anything by way of remediation to any land (other than land of which that person is the owner or occupier) in consequence of land A appearing to be in such a condition, by reason of the presence of those substances in, on or under it, that harm is being caused, or there is a significant possibility of harm being caused.".

(3) Yn lle is-adran (4), rhodder—

"(4) Where this subsection applies, no remediation notice shall require a person—

(a) who is the owner or occupier of land A, and

(b) who has not caused or knowingly permitted the substances in question to be in, on or under that land,

to do anything by way of remediation in consequence of any further land in, on or under which those substances or any of them appear to be or to have been present as a result of their escape from land A ("land B") appearing to be in such a condition, by reason of the presence of those substances in, on or under it, that harm is being caused, or there is a significant possibility of such harm being caused, unless that person is also the owner or occupier of land B.".

Adran 78N (pwerau'r awdurdod gorfodi i gyflawni adferiad)

14.—(1) Mae adran 78N (pwerau'r awdurdod gorfodi i gyflawni adferiad) yn effeithiol gyda'r addasiadau canlynol.

(2) Yn is-adran (1), hepgorer "or waters".

(3) Ar ôl is-adran (1), mewnosoder—

"(1A) The enforcing authority shall exercise its power under subsection (1) in any case falling within paragraph (c), (d), (e) or (f) of subsection (3).

(1B) If the Secretary of State thinks fit, the Secretary of State may make available to the enforcing authority a sum or sums of money in respect of costs and expenses incurred