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WELSH STATUTORY INSTRUMENTS

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**2009 No. 3342**

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

**PART 5** **E+W**

Determination of Conditions

**Deemed determination of conditions under the 1991 and 1995 Acts** **E+W**

**42.**—(1) Paragraph 2(6)(b) of Schedule 2 to the 1991 Act, paragraph 9(9) of Schedule 13 to the 1995 Act and paragraph 6(8) of Schedule 14 to the 1995 Act do not apply to an undetermined ROMP application unless the Welsh Ministers have made a screening direction under regulation 9 or 11 to the effect that the development in question is not EIA development.

(2) In determining for the purposes of paragraphs 2(6)(b) of Schedule 2 to the 1991 Act, 9(9) of Schedule 13 to the 1995 Act and 6(8) of Schedule 14 to the 1995 Act (determination of conditions) the time which has elapsed without the mineral planning authority giving the applicant written notice of its determination in a case where the Welsh Ministers have made a direction under regulation 9 to the effect that ROMP development is exempt development, or regulation 11 to the effect that the development in question is not EIA development, the period prior to the issue of the direction is to be disregarded.

**Disapplication of paragraph 4(4) of Schedule 2 to the 1991 Act** **E+W**

**43.** Paragraph 4(4) of Schedule 2 to the 1991 Act (requirement for mineral planning authority to give written notice of determination) does not apply to an EIA application made under paragraph 2(2) of that Schedule.

**Determination of conditions** **E+W**

**44.**—(1) A relevant mineral planning authority must give written notification of its determination of an EIA application within 16 weeks of the latest of the following dates—

- (a) the date falling 21 days after the date on which the documents required by regulation 21 are received by it or, if those documents are received on different dates, the date falling 21 days after the date on which the final document is received;
- (b) the date falling 21 days after the date on which any documents required by regulation 31 are received by it or, if those documents are received on different dates, the date falling 21 days after the date on which the final document is received;
- (c) the date falling 21 days after the date on which the relevant mineral planning authority publishes any other relevant information under regulation 37,

or such longer period as may be agreed between the applicant and the relevant mineral planning authority.

(2) The Welsh Ministers must give written notification of their determination of an EIA application within such period following the latest of the following dates as they may reasonably require—

- (a) the date falling 21 days after the date on which the documents required by regulation 21 are received by them or, if those documents are received on different dates, the date falling 21 days after the date on which the final document is received;
- (b) the date falling 21 days after the date on which any documents required by regulation 31 are received by them or, if those documents are received on different dates, the date falling 21 days after the date on which the final document is received;
- (c) the date falling 21 days after the date on which the Welsh Ministers publish any other relevant information under regulation 37,

or such longer period as may be agreed between the Welsh Ministers and the applicant or appellant.

#### Appeals against non-determination **E+W**

**45.**—(1) Paragraph 5(2) of Schedule 2 to the 1991 Act, paragraph 11(1) of Schedule 13 to the 1995 Act and paragraph 9(1) of Schedule 14 to the 1995 Act (right of appeal) have effect as if there were also a right of appeal to the Welsh Ministers<sup>M1</sup> where the relevant mineral planning authority has not given written notice of its determination in accordance with regulation 44. This is subject to paragraph (2).

(2) Paragraph 5(5) of Schedule 2 to the 1991 Act, paragraph 11(2) of Schedule 13 to the 1995 Act and paragraph 9(2) of Schedule 14 to the 1995 Act (right of appeal) have effect as if they also provided for notice of appeal to be made within six months from the expiry of the 16 week or other period agreed pursuant to regulation 44.

#### Marginal Citations

- M1** The Secretary of State's functions under the 1991 and 1995 Acts so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by S.I. [1999 No. 672](#) and are now exercisable by the Welsh Ministers by virtue of paragraph 30 of Schedule 11 to the [Government of Wales Act 2006 \(c. 32\)](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009, PART 5 .