

Draft Regulations laid before Senedd Cymru in accordance with the Senedd approval procedure under section 79(4)(c) and (d) of the Disused Mine and Quarry Tips (Wales) Act 2025 (asc 4)

DRAFT WELSH STATUTORY
INSTRUMENT

2027 No. (W.)

**HEALTH AND SAFETY,
WALES**

**The Disused Mine and Quarry
Tips (Appeals and
Reimbursement of Expenses)
(Wales) Regulations 2027**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about the procedure to be followed in determining applications made to the Welsh Ministers under sections 38 and 43 of the Disused Mine and Quarry Tips (Wales) Act 2025 (“the Act”).

Part 1 deals with introductory matters.

Part 2 relates to the determination of applications made under section 38 of the Act. Section 38 gives an owner of land who is given a notice requiring the carrying out of operations on land pursuant to section 35 of the Act, or a person who is given a copy of the notice under section 37, a right to apply to the Welsh Ministers to vary or cancel the notice.

Part 2 contains provisions relating to the contents of an application, the decisions as to the procedure, a duty to share contact details with the appointed person, and representations and further comments.

Part 2 also contains provisions relating to hearings and inquiries.

Part 3 relates to the determination of applications made under section 43 of the Act. Section 43 applies where the Authority has cancelled a section 35 notice and the owner of land who was given the notice has incurred expenditure in complying with it. Section 43 gives the owner a right to apply to the Welsh Ministers to be reimbursed by the Authority for (a) any expenditure incurred by the owner as a result of them having been given the notice, and (b) any expenditure incurred by the owner that is attributable to the cancellation of the notice.

Part 3 contains provisions relating to the contents of an application, time limits for making an application, a duty to share contact details with the appointed person, and representations and further comments.

Part 4 applies to both types of application. It contains supplementary provisions relating to the discretion of the appointed person, the supply of documents, extending deadlines and providing additional information, site inspections, the withdrawal of applications, failure to take action, revocation of an appointment of a person appointed to determine an application and the requirement to notify of the determination.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from Welsh Government, Cathays Park, Cardiff, CF10 3NQ and is published on www.gov.wales.

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2027 No. (W.)

HEALTH AND SAFETY, WALES

The Disused Mine and Quarry Tips (Appeals and Reimbursement of Expenses) (Wales) Regulations 2027

Made ***

Laid before Senedd Cymru ***

Coming into force on 1 April 2027

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 40(1), (2), (3), (4) and 43(7), (8) and (9) of the Disused Mine and Quarry Tips (Wales) Act 2025(1).

In accordance with the Senedd approval procedure applied by section 79(3), (4)(c) and (d) of that Act, a draft of this Welsh statutory instrument was laid before, and approved by resolution of, Senedd Cymru.

PART 1

Introduction

Title and coming into force

1.—(1) The title of these Regulations is the Disused Mine and Quarry Tips (Appeals and Reimbursement of Expenses) (Wales) Regulations 2027.

(1) 2025 asc 4.

(2) These Regulations come into force on 1 April 2027.

Interpretation

2. In these Regulations—

“the Act” (“*y Ddeddf*”) means the Disused Mine and Quarry Tips (Wales) Act 2025;

“appeal” (*insert Welsh*) means the determination of an application under section 38 of the Act;

“applicant” (*insert Welsh*) means a person who makes an application;

“application” (*insert Welsh*)—

(a) in Part 2 means an application under section 38 of the Act;

(b) in Part 3 means an application under section 43 of the Act;

(c) in Part 4 means an application under section 38 of the Act or an application under section 43 of the Act, as appropriate;;

“appointed person” (*insert Welsh*) means a person appointed by the Welsh Ministers;

“the Authority” (*insert Welsh*) means the Disused Tips Authority for Wales established by section 1(1) of the Act;

“contact details” (*insert Welsh*), in relation to a person, means the person’s name, address, telephone number (if applicable), email address (if applicable) and any other information about how the person may be contacted;

“electronic communication” (“*insert Welsh*”) has the meaning given by section 15(1) of the Electronic Communications Act 2000(1);

“grounds of appeal” (*insert Welsh*) means one or more of the grounds in section 38(3) and (4) of the Act;

“notice of cancellation” (*insert Welsh*) has the meaning given by section 42(2) of the Act;

“procedure” (*insert Welsh*)—

(a) in relation to the determination of an application under section 38 of the Act, means written representations, a hearing, an inquiry or a combination of those procedures;

(b) in relation to the determination of an application under section 43 of the Act, means written representations;

(1) 2000 c. 7; section 15(1) was amended by the Communications Act 2003 (c. 21).

“section 35 notice” (*insert Welsh*) means the notice given under section 35 of the Act, to which the application relates;

“start date” (*insert Welsh*) in Part 2 has the meaning given in regulation 6 and in Part 3 has the meaning given in regulation 24.

PART 2

Determination of appeals under section 38 of the Act

Right to apply to vary or cancel a section 35 notice

3. An application must be made in accordance with these Regulations.

Contents of application

4.—(1) An application must—

- (a) be in writing, on a form specified by the Welsh Ministers;
- (b) include the contact details of the applicant and the contact details of any agent acting for the applicant;
- (c) state the location of the land to which the section 35 notice relates;
- (d) state the name or names by which the land is commonly known;
- (e) state the applicant’s interest in the land;
- (f) state the grounds of appeal on which the applicant relies;
- (g) state whether the applicant wishes to have the appeal dealt with by way of written representations, a hearing or an inquiry, including reasons;
- (h) include a list of all the documents, and the date each document was produced (where any document is dated), provided under paragraph (2).

(2) An application must be accompanied by—

- (a) a copy of the section 35 notice, and
- (b) a copy of each document upon which the applicant wishes to rely.

Determination of applications

5. Applications must be determined in accordance with these Regulations.

Decision as to procedure and start date

6.—(1) The appointed person must, as soon as practicable after determining whether the application satisfies the requirements of regulation 4, decide whether the application is to be determined by means of written representations, a hearing, an inquiry or a combination of those procedures.

(2) The appointed person must notify the applicant, the Authority and each person who was given a copy of the section 35 notice under section 37 of the Act, of that decision.

(3) The appeal begins the day after the date on which notification was given under paragraph (2) (the “*start date*”).

(4) The appointed person must send to the Authority a copy of the application and any accompanying documents when notifying the Authority under paragraph (2).

(5) A decision under paragraph (1) may be varied by a subsequent decision under that paragraph at any time before the application is determined.

(6) Where a decision is varied—

- (a) the appointed person must notify the applicant, the Authority and any other person who has made representations in respect of the appeal, of the variation,
- (b) anything done under the former procedure which could have been done under any corresponding provision of these Regulations relating to the new procedure has effect as if done under that corresponding provision, and
- (c) the appointed person may give consequential directions as to the procedure.

(7) Nothing in paragraphs (4) to (6) affects the start date under paragraph (3).

(8) In making a decision under paragraph (1), the appointed person must have regard to any guidance given to the appointed person by the Welsh Ministers.

Duty on Authority to share contact details

7.—(1) The Authority must within the period of 2 weeks beginning with the start date, send to the appointed person the contact details for each person who has been given a copy of the section 35 notice under section 37 of the Act, for the purpose of exercising its functions under the Act and these Regulations.

(2) This regulation does not require or permit information to be given contrary to any prohibition imposed by an enactment or other rule of law.

Representations and comments

8.—(1) Where an application is to be determined by way of written representations—

- (a) the Authority must, within the period of 4 weeks beginning with the start date, send to the appointed person any representations it wishes to make in relation to the appeal together with any documents it wishes to rely on;
- (b) if the applicant wishes to make any representations in addition to those made in the application or in the accompanying documents, the applicant must send those representations to the appointed person within 4 weeks beginning with the start date.

(2) Where an application is to be determined by way of a hearing or an inquiry, the applicant and the Authority must each, within 4 weeks beginning with the start date, send to the appointed person a statement containing full particulars of the case they propose to put forward at the hearing or inquiry and a list of any documents they propose to refer to or put in evidence.

(3) Where the application is to be determined by way of written representations, the appointed person must, as soon as reasonably practicable following receipt of any representations the Authority wishes to make in relation to the appeal and any documents it wishes to rely on, send a copy of those representations and documents to the applicant.

(4) Where the application is to be determined by way of written representations, the appointed person must, as soon as reasonably practicable following receipt of any additional representations from the applicant send a copy of those representations to the Authority.

(5) Where the application is to be determined by way of a hearing or an inquiry, the appointed person must, as soon as reasonably practicable following receipt of the Authority's statement and list, send a copy of that statement and list to the applicant.

(6) Where the application is to be determined by way of a hearing or an inquiry, the appointed person must, as soon as reasonably practicable following receipt of the applicant's statement and list, send a copy of that statement and list to the Authority.

(7) Where the application is to be determined by way of written representations, a hearing, an inquiry or a combination of these procedures, the appointed person must, as soon as reasonably practicable following receipt of representations in relation to the appeal from someone other than the Authority or the applicant, send copies of those representations to the Authority and to the applicant.

(8) The applicant and the Authority may, within the period of 6 weeks beginning with the start date, send

comments on representations or statements to the appointed person.

(9) The appointed person must, as soon as practicable after that 6 week period, send a copy of the Authority's comments to the applicant and at the same time, send a copy of the applicant's comments to the Authority.

Establishing a hearing or inquiry

9.—(1) If an application is to be determined by way of a hearing or an inquiry, or by a combination of procedures, the appointed person must set a date for the hearing or inquiry ("*the relevant date*").

(2) The appointed person must, at least 4 weeks before the relevant date, give notice of the relevant date to—

- (a) the applicant,
- (b) the Authority, and
- (c) any person who was given a copy of the section 35 notice under section 37 of the Act.

(3) The Authority must, at least 2 weeks before the relevant date, publish notice of the hearing or inquiry in such manner as the Authority thinks will be most effective to bring it to the attention of any persons likely to be interested in it.

(4) If the appointed person changes the relevant date it must repeat the procedure in paragraphs (2) and (3).

Hearings

10.—(1) Where an application is to be determined by way of a hearing, the appointed person may decide whether the hearing will be held—

- (a) in person,
- (b) wholly through the use of remote access ("a remote appeal"), or
- (c) partly in person and partly through the use of remote access ("a hybrid appeal").

(2) A remote appeal may only be held entirely by live audio link if—

- (a) a live video link is not available for reasons relating to internet connectivity, and
- (b) both the applicant and the Authority agree.

(3) If the appointed person decides either that a remote appeal or a hybrid appeal will be held the appointed person must make all necessary arrangements for it to have access to the necessary remote access equipment.

(4) The appointed person may only decide to hold a remote appeal or a hybrid appeal if it is satisfied that—

- (a) the use of remote access will not prevent the parties from being able to present their case fully using that procedure,
- (b) each participant has access to the electronic means to allow them to hear and be heard and (where using a live video link) see and be seen, throughout the hearing, and
- (c) the appeal is capable of being heard fairly and transparently using that procedure.

(5) The appointed person may decide that an application will be determined on the written information submitted if either the representatives of the Authority or the applicant are unable to attend on the relevant date.

Pre-inquiry meeting

11.—(1) Where the application is to be determined by way of inquiry, the appointed person may hold a pre-inquiry meeting to determine the matters to be addressed and the procedure to be followed at the inquiry.

(2) The appointed person must give at least 4 weeks' notice of such a meeting to—

- (a) the applicant,
- (b) the Authority,
- (c) any person known at the date of the notice to be entitled to appear at the inquiry, and
- (d) any other person whose presence the appointed person considers desirable.

(3) At the meeting, the appointed person may give directions to the applicant, the Authority and any other person wishing to appear at the inquiry about things to be done in preparation for the inquiry and the date by which they must be done.

(4) A person to whom a direction is given under paragraph (3) must comply with it.

Statement of agreed facts – inquiries

12.—(1) Where the application is to be determined by way of inquiry, the applicant and the Authority must together prepare a statement containing such factual information about the subject matter of the appeal as they are able to agree.

(2) The Authority must ensure that the appointed person receives that statement at least 2 weeks before the relevant date.

Proofs of evidence – inquiries

13.—(1) This regulation applies where a person entitled to appear at an inquiry intends to give, or to call a witness to give evidence at the inquiry.

(2) The person must, at least 2 weeks before the relevant date or such other time as the appointed person directs, send a proof of evidence intended to be given together with any written summary required to the appointed person.

(3) The appointed person must, as soon as practicable after receiving a proof of evidence, send a copy of it to the applicant, the Authority and any other person who has sent a proof of evidence to the appointed person.

(4) A written summary is required if the proof of evidence in question exceeds 1,500 words.

(5) Where a written summary is provided, only that summary may be read at the inquiry, unless the appointed person directs otherwise.

(6) Where a person gives evidence at an inquiry by reading a written summary of a proof of evidence—

(a) the proof of evidence is treated as tendered in evidence, unless the person required to provide the written summary notifies the appointed person that the person now wishes to rely on the contents of that summary alone, and

(b) the person whose evidence the proof of evidence contains may be subject to cross-examination on it to the same extent as if it were evidence given orally.

(7) The appointed person may allow any person to alter or add to that person's proof of evidence or summary so far as may be necessary in the inquiry.

(8) But if this is done, the appointed person must (if necessary by adjourning the inquiry) give every other person appearing at the inquiry an adequate opportunity to consider any new matter or document.

Procedure – hearings and inquiries

14.—(1) The appointed person may determine the procedure to be followed at a hearing or an inquiry, other than is already provided for in these Regulations.

(2) Once the hearing or inquiry has started the appointed person may adjourn it at any time.

(3) The persons entitled to appear are—

(a) the applicant,

(b) the Authority, and

(c) any other person who has made representations concerning the appeal.

(4) The appointed person may proceed in the absence of any person entitled to appear.

(5) The appointed person may permit any other person to appear, and such permission must not be unreasonably withheld.

(6) Any person entitled or permitted to appear may appear in person or be represented by any other person.

(7) A person entitled to appear may call evidence, but the calling of evidence is at the appointed person's discretion.

(8) Cross-examination is not permitted at a hearing unless the appointed person considers that it is required to ensure a thorough examination of the main issues.

(9) If the appointed person considers that cross-examination is required, the appointed person must consider, after consulting the applicant and the Authority, whether to close the hearing and start an inquiry instead.

(10) A person entitled to appear at an inquiry may cross-examine a person giving evidence, but the cross-examination of a person giving evidence at an inquiry is otherwise at the appointed person's discretion.

(11) The appointed person may take into account any written representation, evidence or any other document received from any person before or during a hearing or inquiry, provided that the appointed person discloses it at the hearing or inquiry.

(12) An appointed person may decide to hold a hearing or an inquiry wholly or partly in private.

Powers to exclude persons, evidence etc.

15.—(1) If at any stage of a hearing or inquiry the appointed person considers that any of the reasons in paragraph (2) apply, the appointed person may prevent any person from—

- (a) giving evidence,
- (b) cross-examining a person giving evidence, or
- (c) presenting any matter.

(2) The reasons are—

- (a) that the evidence or matter was not provided within the relevant time limits,
- (b) that the evidence or matter was otherwise not provided in accordance with any provision of these Regulations or with any direction given or requirement made by the appointed person under these Regulations,
- (c) that the evidence or matter is irrelevant or repetitious, or
- (d) that the person is behaving or has behaved in a disruptive manner at the hearing or inquiry.

(3) If any person at the hearing or inquiry behaves in a disruptive manner the appointed person may—

- (a) require that person to leave,

- (b) prevent that person from participating in the hearing or inquiry, or
- (c) permit that person to remain at, or participate in, the hearing or inquiry only on specified conditions.

(4) Where the appointed person refuses to permit a person to give oral evidence under paragraph (3), the person may submit to the appointed person any evidence or other matter in writing before the close of the hearing or inquiry.

Concurrent or combined inquiries

16. Where—

- (a) an application is to be determined by way of an inquiry, and
- (b) in the case of some other matter required or authorised to be the subject of an inquiry (“the other inquiry”), it appears to the appointed person that the matters should be considered together,

the appointed person may direct that the two inquiries be held concurrently or combined as one inquiry.

Concurrent or combined hearings

17. Where—

- (a) an application is to be determined by way of a hearing, and
- (b) in the case of some other matter required or authorised to be the subject of a hearing (“the other hearing”), it appears to the appointed person that the matters should be considered together,

the appointed person may direct that the two hearings be held concurrently or combined as one hearing.

National security inquiries

18.—(1) If, in the case of an appeal, the Welsh Ministers certifies that it would in the opinion of the Welsh Ministers be contrary to the interests of national security—

- (a) if an inquiry under these Regulations were to be held, or
- (b) if any members of the public, or any specified persons, were to be admitted to the inquiry or some specified part of it,

the inquiry is not to be held or, the public is not, or those persons are not, to be admitted to the inquiry or that part of it.

(2) In paragraph (1) “*specified*” means—

- (a) specified in the certificate, or

- (b) of a description specified in the certificate.

Determination of application by way of written representations

19.—(1) This regulation applies if an application is to be determined by way of written representations.

(2) An application that satisfies the requirements of regulation 4, together with any representations or comments made by the applicant received under regulation 8(1)(b) and (8), comprise the applicant's representations in relation to the appeal.

(3) The representations made under regulation 8(1)(a), together with any comments made by the Authority under regulation 10(8), comprise the Authority's representations in relation to the appeal.

(4) In determining the application, the appointed person may disregard any representation or comment made by the applicant or the Authority other than the applicant's representations and the Authority's representations as set out in paragraphs (2) and (3).

PART 3

Application under section 43 of the Act

Application for reimbursement of expenses on cancellation of section 35 notice

20. Applications must be made in accordance with these Regulations.

Contents of application

21.—(1) An application must—

- (a) be in writing, on a form specified by the Welsh Ministers;
- (b) state the contact details of the applicant and the contact details of any agent acting for the applicant;
- (c) state the location of the land to which the section 35 notice relates;
- (d) state the name or names by which the land is commonly known;
- (e) state the applicant's interest in the land;
- (f) include a statement of account and evidence of—
 - (i) any expenditure incurred by the applicant in consequence of the section 35 notice, and
 - (ii) any expenditure incurred by the applicant which is attributable to the cancellation of the section 35 notice (whether attributable

- to the reinstatement of any land, the cancellation of any contract or otherwise);
- (g) a list of all the documents, and the date each document was produced (where any document is dated), specified in paragraph (2).

- (2) An application must be accompanied by—
 - (a) a copy of section 35 notice,
 - (b) a copy of the notice of cancellation to which the application relates, and
 - (c) a copy of each document upon which the applicant wishes to rely.

Time limit for making an application

22. An application must be received by the Welsh Ministers within 6 months beginning with the date of the notice of cancellation.

Determination of applications

23. Applications must be determined by way of written representations in accordance with these Regulations.

Start date

24.—(1) The appointed person must, as soon as practicable after determining whether the application satisfies the requirements of regulation 21, notify the applicant, the Authority and each person who was given a copy of the section 35 notice under section 37 of the Act, of that decision.

(2) If the appointed person determines that the application satisfies the requirements of regulation 21, the period for determining the application begins on the day after notification was given under paragraph (1) (the “*start date*”).

(3) The appointed person must send to the Authority a copy of the application and any accompanying documents sent to it under regulation 21(2) when giving notice to the Authority under paragraph (2).

(4) In making a decision under paragraph (1), the appointed person must have regard to any guidance given to the appointed person by the Welsh Ministers.

Duty on Authority to share contact details

25.—(1) The Authority must within the period of 2 weeks beginning with the start date, send to the appointed person the contact details for each person who has been given a copy of the section 35 notice under section 37 of the Act, for the purpose of exercising its functions under the Act and these Regulations.

(2) This regulation does not require or permit information to be given contrary to any prohibition imposed by an enactment or other rule of law.

Representations and comments

26.—(1) The Authority must within 2 weeks beginning with the start date, send to the appointed person any representations it wishes to make on the application together with any documents it wishes to rely on.

(2) At the end of the period of 2 weeks beginning with the start date, the appointed person must send a copy of the Authority's representations to the applicant.

PART 4

Supplementary provisions

Discretion of the appointed person

27. All matters relating to the procedure are to be determined by the appointed person, other than as is already provided for in these Regulations.

Supply of documents etc.

28.—(1) Anything required or permitted to be sent or supplied (including any representations made) under these Regulations or section 38, 39 or 43 of the Act must be in writing and may be supplied by—

- (a) post, or
- (b) electronic communication.

(2) If a document supplied refers to another document, a copy of that other document must also be supplied.

(3) Documents and copies supplied—

- (a) by the applicant or the Authority must be supplied in duplicate;
- (b) by any other person, must be supplied in triplicate.

(4) But paragraph (3) does not apply to a document or copy supplied electronically.

(5) If any document has already been supplied for the purposes of determining an application and is readily available to all parties, the appointed person may direct that it need not be supplied again.

(6) Where an electronic communication is received by the recipient outside the recipient's business hours it will be taken to have been received on the next working day.

(7) In determining an application the appointed person may disregard any representations, documents,

evidence or information received after the relevant time limits.

(8) Where an applicant supplies any application or other document to the Welsh Ministers or the appointed person using electronic communication they will be taken to have agreed—

- (a) to the use of such communication for all purposes relating to the determination of the application which are capable of being carried out electronically,
- (b) that the applicant's address for the purpose of such communication is the address incorporated into or otherwise logically associated with, the application or other document, and
- (c) that the applicant's deemed agreement under this paragraph will subsist until the applicant gives notice under paragraph (9), of a wish to revoke the agreement.

(9) Where the applicant is no longer willing to accept the use of electronic communications for any purpose of these Regulations or section 38, 39 or 43 of the Act which is capable of being effected electronically, the applicant must give notice in writing—

- (a) withdrawing any address notified to the Welsh Ministers or to the appointed person for that purpose, or
- (b) revoking any agreement entered into with the Welsh Ministers or with the appointed person for that purpose.

Extending relevant time limits and providing additional information or copies

29.—(1) The appointed person may, in exceptional circumstances, extend any relevant time limit.

(2) The appointed person may at any time—

- (a) require further information;
- (b) offer further opportunities to make representations;

if the appointed person considers that it is necessary for the determination of the application.

(3) A person who is subject to a requirement, or who is offered an opportunity to make further representations, under paragraph (2), must comply with any time limit specified by the appointed person.

Site inspections

30.—(1) The appointed person may inspect the land to which the application relates.

(2) Where the appointed person intends to make an inspection under paragraph (1), they may notify the applicant and any other person of the date and time of the inspection.

(3) The appointed person is not required to defer an inspection where any person (including the applicant) is not present at the time notified.

Withdrawal of application

31.—(1) An applicant may withdraw an application at any time before the appointed person has determined the application.

(2) If an applicant withdraws an application it must be done by writing to the Welsh Ministers.

(3) If the applicant withdraws their application, the Welsh Ministers must notify the Authority and each person who was given a copy of the section 35 notice under section 37 of the Act, of the withdrawal.

Failure to take action

32.—(1) This regulation applies where the applicant or the Authority has failed, within relevant time limits, to take any step to provide any information required under these Regulations.

(2) The appointed person may, after giving the applicant and the Authority notice of the intention to do so, determine an application even though that step has not been taken or that information has not been provided.

Revocation of appointment

33.—(1) Where an application has not been determined, the Welsh Ministers may revoke an appointment made under section 39(1) or 43(3) of the Act if they are—

- (a) notified in writing by the appointed person, or
- (b) otherwise satisfied,

that the appointed person is unable to carry out the requirements of section 39 or 43 (as appropriate) or of these Regulations.

(2) Where an appointment is revoked, the Welsh Ministers must, as soon as practicable, appoint another person under section 39(1) or 43(3) (as appropriate) to determine the application.

(3) Where a new appointment is made, the appointed person may decide whether the determination of the application, or any hearing or inquiry in connection with it, must begin afresh.

(4) But nothing in paragraph (3) requires any person to be given an opportunity to make fresh representations

or comments or to modify or withdraw any representations or comments already made.

Notification of determination

34. The appointed person must notify the applicant, the Authority and each person who was given a copy of the section 35 notice under section 37 of the Act, in writing of the determination of the application.

Llyr Gruffydd

Cabinet Secretary for Rural Resilience and Sustainability, one of the Welsh Ministers

Date