

**2015 No. 1822 (W. 264)**

**TOWN AND COUNTRY  
PLANNING, WALES**

The Town and Country Planning  
(Determination of Appeals by  
Appointed Persons) (Prescribed  
Classes) (Wales) Regulations 2015

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations revoke and replace, with some changes, the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997, in relation to Wales.

Regulation 3 prescribes the classes of appeals made under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning (Hazardous Substances) Act 1990 which are to be determined by persons appointed by the Welsh Ministers, instead of by the Welsh Ministers.

Regulation 4 prescribes certain classes of case, within the classes of appeal prescribed under regulation 3, which are to continue to be determined by the Welsh Ministers.

Regulation 5 makes provision about the publication of any direction made by the Welsh Ministers specifying the classes of case, within the classes of appeal prescribed in regulation 3, which are to be determined by the Welsh Ministers.

Regulation 6 makes revocation and saving provision.

The Regulatory Impact Assessment applicable to these Regulations is obtainable from the Welsh Government at: Cathays Park, Cardiff CF10 3NQ and on the Welsh Government website at [www.gov.wales](http://www.gov.wales).

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The Town and Country Planning  
(Determination of Appeals by  
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Classes) (Wales) Regulations 2015

*Made* 20 October 2015

*Laid before the National Assembly for Wales*  
26 October 2015

*Coming into force* 16 December 2015

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by section 333 of and paragraph 1 of Schedule 6 to the Town and Country Planning Act 1990<sup>(1)</sup>, section 93 of and paragraph 1 of Schedule 3 to the Planning (Listed Buildings and Conservation Areas) Act 1990<sup>(2)</sup> and section 40 of and paragraph 1 of the Schedule to the Planning (Hazardous Substances) Act 1990<sup>(3)</sup>, now exercisable by them<sup>(4)</sup>, make the following Regulations:

**Title, commencement and application**

1.—(1) The title of these Regulations is the Town and Country Planning (Determination of Appeals by

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(1) 1990 (c. 8); paragraph 1 of Schedule 6 was amended by paragraph 44 of Schedule 22 to the Environment Act 1995 (c. 25) and by section 198(1) and (2)(a) of the Planning Act 2008 (c. 29).

(2) 1990 (c. 9).

(3) 1990 (c. 10).

(4) The relevant functions of the Secretary of State, so far as exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the entry in Schedule 1 for the Town and Country Planning Act 1990 and see section 118(3) of the Planning and Compulsory Purchase Act 2004 (c. 5). The functions of the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraphs 30 and 32 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

Appointed Persons) (Prescribed Classes) (Wales) Regulations 2015 and they come into force on 16 December 2015.

(2) These Regulations apply in relation to Wales.

## **Interpretation**

2. In these Regulations—

“the principal Act” (“*y brif Ddeddf*”) means the Town and Country Planning Act 1990;

“the Hazardous Substances Act” (“*y Ddeddf Sylweddau Peryglus*”) means the Planning (Hazardous Substances) Act 1990;

“the Listed Buildings Act” (“*y Ddeddf Adeiladau Rhestredig*”) means the Planning (Listed Buildings and Conservation Areas) Act 1990;

“the 1997 Regulations” (“*Rheoliadau 1997*”) means the Town and Country Planning (Determination of Appeals by Appointed Persons) (Prescribed Classes) Regulations 1997(1);

“the 2009 Regulations” (“*Rheoliadau 2009*”) means the Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009(2); and

“statutory undertakers” (“*ymgymerwyr statudol*”) means statutory undertakers within the meaning of section 262 of the principal Act and other persons who, by virtue of subsection (3) or (6) of that section(3), are deemed to be statutory undertakers for the purposes of section 266 of that Act.

## **Classes of appeal for determination by appointed persons**

3.—(1) Subject to regulation 4, the following classes of appeal are prescribed for the purposes of paragraph 1(1) of Schedule 6 to the principal Act as appeals to be determined by a person appointed by the Welsh Ministers—

- (a) appeals under section 78 of the principal Act (appeals against planning decisions and failure to take such decisions), including appeals under that section as applied by regulation 15 of the Town and Country Planning (Control of Advertisements)

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(1) S.I. 1997/420.

(2) S.I. 2009/3342 (W. 293).

(3) Section 262 was amended by S.I. 2001/1149, section 76(7) of the Utilities Act 2000 (c. 27), S.I. 2013/755 and section 37 of and paragraph 6(1), (2), (3) and (4) of Schedule 5 to the Transport Act 2000 (c. 38), sections 31 and 84, paragraph 22 of Schedule 6 and Part II of Schedule 19 to the Planning and Compensation Act 1991 (c. 34).

Regulations 1992<sup>(1)</sup> (appeals against refusal of or failure to take decision on an application for express consent to display an advertisement) and appeals under that section as applied by section 198(3)(c) and (4) of the principal Act (appeals concerning tree preservation orders);

- (b) appeals under section 174 of the principal Act (appeals against enforcement notices);
- (c) appeals under section 195 of the principal Act (appeals against refusal of or failure to give decision on an application for a certificate of lawfulness of existing or proposed use or development);
- (d) appeals under section 208 of the principal Act (appeals against section 207 notices—replacement of trees);
- (e) appeals under paragraph 11(1) of Schedule 13 and paragraph 9(1) of Schedule 14 to the Environment Act 1995<sup>(2)</sup> (appeals against the determination of conditions to be attached to mineral permissions), including appeals under those provisions as applied by regulation 45 of the 2009 Regulations (appeals against non-determination); and
- (f) appeals under paragraph 5 of Schedule 2 to the Planning and Compensation Act 1991<sup>(3)</sup> (appeals relating to old mining permissions), including appeals under that provision as applied by regulation 45 of the 2009 Regulations.

(2) The following classes of appeal are prescribed for the purposes of paragraph 1(1) of Schedule 3 to the Listed Buildings Act as appeals to be determined by a person appointed by the Welsh Ministers—

- (a) appeals under section 20 of the Listed Buildings Act (listed building consent), including appeals under that section as having effect by virtue of section 74 of that Act (conservation areas); and
- (b) appeals under section 39 of the Listed Buildings Act (listed building enforcement notices), including appeals under that section as having effect by virtue of section 74 of that Act.

(3) Appeals under section 21 of the Hazardous Substances Act (appeals against decisions or failure to take decisions relating to hazardous substances) are prescribed for the purposes of paragraph 1(1) of the Schedule to the Hazardous Substances Act as appeals

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(1) S.I. 1992/666.  
(2) 1995 (c. 25).  
(3) 1991 (c. 34).

to be determined by a person appointed by the Welsh Ministers.

### **Classes of appeal reserved for determination by the Welsh Ministers**

4.—(1) Regulation 3 does not apply to the following classes of appeal—

- (a) appeals under section 78 of the principal Act by statutory undertakers where the relevant application related to land to which section 266 of that Act<sup>(1)</sup> (applications for planning permission by statutory undertakers) applies;
- (b) appeals under section 174 of the principal Act by statutory undertakers where the breach of planning control alleged in the enforcement notice consists of the carrying out of development on land to which section 266 of that Act applies, or failure to comply with a condition or limitation on a grant of planning permission for development of any such land; or
- (c) appeals in relation to which the Welsh Ministers or the appropriate Minister have given a direction for section 266 of the principal Act to have effect (and the direction has not been revoked).

### **Publicity for directions**

5.—(1) If a direction is made under—

- (a) paragraph 1(2) of Schedule 6 to the principal Act;
- (b) paragraph 1(2) of Schedule 3 to the Listed Buildings Act; or
- (c) paragraph 1(2) of the Schedule to the Hazardous Substances Act,

the Welsh Ministers may require the local planning authority for every area in respect of which the direction has effect to publish notice of the direction in at least one newspaper circulating in the area.

(2) The notice must include—

- (a) a concise statement of the effect of the direction; and
- (b) details of where a copy of the direction may be inspected.

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(1) Section 266 of the principal Act was amended by S.I. [*insert Section 203 Order number when made*] and sections 32 and 84 of and paragraph 40 of Schedule 7 and Part I of Schedule 19 to the Planning and Compensation Act 1991 (c. 34).

### **Revocation and saving**

6.—(1) The 1997 Regulations are revoked except in relation to appeals in respect of which notice was given before these Regulations come into force.

(2) These Regulations do not apply in respect of appeals referred to in paragraph (1).

*Carl Sargeant*

Minister for Natural Resources, one of the Welsh  
Ministers

20 October 2015