

# Welsh Statutory Instrument 2003 No. 394 (W.53)

## **The Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2003**

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### STATUTORY INSTRUMENTS

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#### **2003 No. 394 (W.53)**

#### **TOWN AND COUNTRY PLANNING, WALES**

#### **The Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2003**

*Made*

*25th February 2003*

*Coming into force*

*1 April 2003*

The National Assembly for Wales, in exercise of the powers conferred on the

Secretary of State, and now vested in the National Assembly for Wales, by sections 173(10)[1], 174(4), 175(1), and 336(1)[2] of the Town and Country Planning Act 1990[3] and sections 39(4), 40(1), 42(5) and 91(1)[4] of the Planning (Listed Buildings and Conservation Areas) Act 1990[5] and of all other powers enabling it in that behalf, hereby makes the following Regulations:

PART 1

CITATION, COMMENCEMENT, APPLICATION AND INTEPRETATION

**Citation, commencement and application**

1. - (1) These Regulations may be cited as the Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2003 and come into force on 1 April 2003.

(2) These Regulations apply to Wales.

**Interpretation**

2. In these Regulations -

"enforcement notice" ("*hysbysiad gorfodi*") means a notice issued under section 172(1)[6] of the Planning Act or section 38(1) of the Listed Buildings Act;

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

"local planning authority" ("*awdurdod cynllunio lleol*") means the body who issue the relevant enforcement notice;

"the National Assembly" ("*y Cynulliad Cenedlaethol*") means the National Assembly for Wales; and

"the Planning Act" ("*y Ddeddf Gynllunio*") means the Town and Country Planning Act 1990.

PART 2

ENFORCEMENT NOTICES UNDER SECTION 172

**Additional matters to be specified in enforcement notice**

3. An enforcement notice issued under section 172 of the Planning Act must specify -

(a) the reasons why the local planning authority consider it expedient to issue the notice;

(b) all policies and proposals in the development plan which are relevant to the decision to issue an enforcement notice; and

(c) the precise boundaries of the land to which the notice relates, whether by reference to a plan or otherwise.

### **Explanatory note to accompany copy of enforcement notice**

**4.** Every copy of an enforcement notice served by a local planning authority under section 172(2) of the Planning Act must be accompanied by an explanatory note which must include the following -

(a) a copy of sections 171A, 171B and 172 to 177 of the Planning Act, or a summary of those sections including the following information -

(i) that there is a right of appeal to the National Assembly against that enforcement notice;

(ii) that an appeal can only be made by giving written notice of the appeal to the National Assembly before the date specified in the enforcement notice as the date on which it is to take effect or by sending such notice to the National Assembly in a properly addressed, pre-paid letter posted to it at such time that, in the ordinary course of post, it would be received by it before that date;

(iii) the grounds on which an appeal may be brought under section 174 of the Planning Act;

(iv) the fee payable under regulation 10 of the Town and Country Planning (Fees for Applications and Deemed Applications) Regulations 1989<sup>[7]</sup> for the deemed application for planning permission for the development alleged to be in breach of planning control in the enforcement notice;

(b) notification that an appellant must send to the National Assembly, either when giving notice of appeal or within 14 days from the date on which the National Assembly sends to the appellant a notice so requiring, a statement in writing specifying the grounds on which the appellant is appealing against the enforcement notice and stating briefly the facts on which the appellant proposes to rely in support of each of those grounds; and

(c) a list of the names and addresses of the persons on whom a copy of the enforcement notice has been served.

## **PART 3**

### **APPEALS**

#### **Statement of appeal**

**5.** A person who makes an appeal to the National Assembly under section 174(3) of the Planning Act or section 39(2) of the Listed Buildings Act against an enforcement notice must send to the National Assembly a statement in writing -

(a) specifying the grounds on which the appeal is brought; and

- (b) setting out briefly the facts on which the appellant proposes to rely in support of each of those grounds,

and if such a statement is not included with the appeal, the appellant must send it to the National Assembly so that it is received by the National Assembly not later than 14 days from the date on which the National Assembly sends the appellant a notice requiring them to do so.

**Notification of appeal to the local planning authority**

6. Upon receipt of the statement under regulation 5, the National Assembly must notify the local planning authority in writing that an appeal has been made and copy to the local planning authority the appeal and the statement made under regulation 5.

**Local planning authority to send a copy of notice to the National Assembly**

7. Where the local planning authority receives notification under regulation 6 that an appeal has been made to the National Assembly, the local planning authority must send to the National Assembly, not later than 14 days from the date of that notification, a certified copy of the enforcement notice and a list of names and addresses of the persons on whom a copy of the notice has been served under section 172(2) of the Planning Act or section 38(4) of the Listed Buildings Act, as the case may be.

**Statement by local planning authority**

8. - (1) Where an appeal has been made to the National Assembly against an enforcement notice issued by a local planning authority, the authority must send to the National Assembly, and any person on whom a copy of the enforcement notice has been served, a statement indicating the submissions which it proposes to put forward on the appeal, including -

- (a) a summary of the authority's response to each ground of appeal pleaded by the appellant; and

- (b) a statement whether the authority would be prepared to grant planning permission for the matters alleged in the enforcement notice to constitute the breach of planning control, or grant listed building consent or conservation area consent for the works to which the listed buildings enforcement notice or conservation area enforcement notice relates, as the case may be, and, if so, particulars of the conditions, if any, which it would wish to impose on the permission or consent.

(2) Any statement which is required to be sent under paragraph (1) must be received within 6 weeks of the starting date.

(3) In paragraph (2), "starting date" means the date of -

- (a) the National Assembly's written notice under regulation 9; or

- (b) the National Assembly's written notice served in accordance with Rules made under section 9 of the Tribunals and Inquiries Act 1992, informing the appellant and the local planning authority that an inquiry or hearing, as the case may be, is to be held, whichever is the later.

**Notice of receipt of all required documents**

9. When the National Assembly considers that it has received all the documents required to enable it to entertain the appeal, it must send a notice to this effect to the appellant and the local planning authority.

PART 4

NOTICES ISSUED BY THE NATIONAL ASSEMBLY

**Application of these Regulations**

10. These Regulations, except regulations 6 and 7, apply to enforcement notices issued by the National Assembly under section 182 of the Planning Act, to appeals made to the National Assembly against such notices and to appeals against notices issued by the National Assembly under section 46 of the Listed Buildings Act as they apply to such notices issued by local planning authorities and to appeals made against them as if -

- (a) for references to a local planning authority there were substituted references to the National Assembly;
- (b) in regulation 3, for "section 172" there were substituted "section 182";
- (c) in regulation 4 -
  - (i) for "section 172(2)" there was substituted "section 182(1)"; and
  - (ii) in paragraph (a), for "sections 171A, 171B and 172 to 177" there were substituted "sections 171A, 171B, 172 to 177 and 182"; and
- (d) for regulation 8 the following were substituted -

" 8. Where an appeal has been made to the National Assembly against an enforcement notice which it has issued, the National Assembly must send to the appellant a statement indicating the submissions which it proposes to put forward on the appeal (including a summary of its response to each ground of appeal pleaded by the appellant) within 6 weeks of the starting date."

PART 5

REVOCATION

**Revocation and transitional provisions**

11. - (1) Subject to paragraph (3), the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1991<sup>[8]</sup> ("the 1991 Regulations") are hereby revoked in so far as they apply to Wales, except regulation 10(2) of those Regulations so far as it amends regulation 11 of the

Planning (Listed Buildings and Conservation Areas) Regulations 1990[9].

(2) Subject to paragraph (3), the Town and Country Planning (Enforcement Notices and Appeals) (Amendment) Regulations 1992[10] are hereby revoked in so far as they apply to Wales.

(3) Subject to paragraph (4), any appeal to which the 1991 Regulations applied which has not been determined on the date when these Regulations come into force is to be continued under the 1991 Regulations.

(4) Where an appeal to which the 1991 Regulations applied is subsequently remitted to the National Assembly for re-determination in proceedings before any court, the decision is to be re-determined in accordance with these Regulations and not the 1991 Regulations.

## PART 6

### TRANSMISSION OF DOCUMENTS

#### **Transmission of documents**

**12.** - (1) Any document required or authorised to be sent by one person to another under these Regulations may be sent by post or by means of electronic communication and any reference in these Regulations, however expressed, to writing is to be construed as including a reference to a form capable of being stored on, transmitted to and from, and read by means of a computer.

(2) Where, under these Regulations, there is a requirement that a copy of a statement, representation notice or other document should be sent by one person to another then, if that copy is sent by means of electronic communication, any further requirement that more than one copy should be sent is to be disregarded.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998[11]

*D.Elis-Thomas*

The Presiding Officer of the National Assembly

25th February 2002

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### **EXPLANATORY NOTE**

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

These Regulations re-enact with amendments the Town and Country Planning (Enforcement Notices and Appeals) Regulations 1991.

They contain provisions relating to -

- (a) the contents of enforcement notices issued under section 172 of the Town and Country Planning Act 1990 and the information to be provided by local planning authorities when serving copies of such notices (Part 2);
- (b) the procedure to be followed in relation to appeals against such notices and against listed building and conservation areas enforcement notices issued under section 38(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (Part 3); and
- (c) the application of the Regulations to such notices issued by the National Assembly for Wales (Part 4).

In addition to minor and drafting amendments, the Regulations make the following changes of substance -

- (a) regulation 3(b) requires the local planning authority to additionally specify details of all policies and proposals in the development plan relevant to the decision to issue an enforcement notice;
- (b) regulation 4 sets out what matters should be dealt with in the explanatory note accompanying the enforcement notice. Additional matters to be included are the fee payable for a deemed application for planning permission and a list of names and addresses on whom a copy of the enforcement notice has been served;
- (c) regulation 6 contains an additional requirement for the National Assembly for Wales to notify the local planning authority that an appeal has been made against the enforcement notice and to copy the appellant's statement of appeal to the local planning authority;
- (d) regulation 8 additionally requires the local planning authority to send a copy of its statement to all persons on whom a copy of the enforcement notice was served;
- (e) the local planning authority's statement under regulation 8 must be sent within 6 weeks of the National Assembly for Wales' written notice given under regulation 9 or notifying the parties that an inquiry or hearing is to be held, whichever is later;
- (f) regulation 9 contains an additional requirement for the National Assembly for Wales to notify the appellant and the local planning authority when it considers that it has received all the documents required to enable it to entertain the appeal; and
- (g) regulation 12 authorises documents, which are sent in accordance with these Regulations, to be sent by means of electronic communication.

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*Notes:*

[1] Section 173 was substituted by section 5(1) of the Planning and Compensation Act 1991 (c.34).[back](#)

[2] Section 336(1) provides the definition of "prescribed".[back](#)

[3] 1990 c.8; the functions of the Secretary of State under sections 173(10), 174(4), and 175(1) were, in relation to Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and are, so far as exercisable in relation to Wales, vested in the National Assembly for Wales by article 4 of, and Schedule 3 to, the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253 (W.5)).[back](#)

[4] Section 91(1) provides the definition of "prescribed".[back](#)

[5] 1990 c.9; the functions of the Secretary of State under sections 39(4), 40(1) and 42(5) are, so far as exercisable in relation to Wales vested in the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).[back](#)

[6] Section 172(1) is substituted by section 5(1) of the Planning and Compensation Act 1991 (c.34).[back](#)

[7] S.I. 1989/193, as amended by S.I. 1991/2735 and to which there other amendments not relevant to these Regulations.[back](#)

[8] S.I. 1991/2804, as amended by S.I. 1992/1492 and 1992/1904.[back](#)

[9] S.I. 1990/1519.[back](#)

[10] S.I. 1992/1904.[back](#)

[11] 1998 c.38.[back](#)

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