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STATUTORY INSTRUMENTS

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**2012 No. 793 (W.108)**

**TOWN AND COUNTRY PLANNING, WALES**

**The Planning (Listed Buildings and  
Conservation Areas) (Wales) Regulations 2012**

<i>Made</i>	- - - -	<i>10 March 2012</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>13 March 2012</i>
<i>Coming into force</i>	- -	<i>30 April 2012</i>

The Welsh Ministers, in exercise of the powers conferred on the Secretary of State by sections 2, 10, 11, 19, 20, 21, 25, 28, 29, 32, 42, 74, 82, 82B, 82F, 91(1) and 93 of the Planning (Listed Buildings and Conservation Areas) Act 1990(2) and now exercisable by them(3), make the following Regulations.

**Title, commencement and application**

1.—(1) The title of these Regulations is the Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 and they come into force on 30 April 2012.

(2) These Regulations apply to Wales.

**Interpretation**

2.—(1) In these Regulations—

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

“electronic communication” (“*cyfathrebiad electronig*”) has the meaning given in section 15(1) of the Electronic Communications Act 2000(4).

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- (1) See the definition of “prescribed”.
- (2) 1990 c. 9. Sections 2 and 32(1) were amended by section 20(4) and Schedule 6, paragraph 25 of the Local Government (Wales) Act 1994 (c. 19). Section 10 was amended by sections 42 and 118 of the Planning and Compulsory Purchase Act 2004 (c. 5) (“the 2004 Act”). Section 32(4) was amended by section 31 and Schedule 6, paragraph 44 of the Planning and Compensation Act 1991 (c. 34) (“the 1991 Act”) and subsection (4A) was inserted by Schedule 10, paragraph 33 of the Environment Act 1990 (c. 25). Section 74(3) was amended by S.I. 2006/1281. Section 82 was amended by section 25 and Schedule 3, paragraph 24 of the 1991 Act and subsection (1) was temporarily amended by section 6 and Schedule 4 of the Planning (Consequential Provisions) Act 1990 (c. 11) until such day as may be appointed by Order under that Schedule. Sections 82B and 82F were inserted by sections 83 and 79 of the 2004 Act respectively. Section 93(1) was amended by Schedule 10, paragraph 33 of the Environment Act and subsections (6A) and (6B) were inserted by section 118 and Schedule 6 of the 2004 Act.
- (3) Functions under those sections, 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). By virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), those functions are now exercisable by the Welsh Ministers.
- (4) 2000 c. 7. Section 15(1) was amended by section 406(1) and Schedule 17, paragraph 158 of the Communications Act 2003 (c. 21).

(2) In these Regulations, in relation to the use of electronic communications for any purpose of these Regulations which is capable of being effected electronically—

- (a) the expression “address” (*“cyfeiriad”*) includes any number or address used for the purposes of such communications, except that where these Regulations impose an obligation on any person to provide a name and address to another person, the obligation is not fulfilled unless the person on whom it is imposed provides a postal address;
- (b) references to forms, plans, notices and other documents, or to copies of such documents, include references to such documents or copies of them in electronic form.

(3) Paragraphs (4) to (7) apply where an electronic communication is used by a person for the purpose of fulfilling any requirement in these Regulations to give or send any form, plan, notice or other document to any other person.

(4) The requirement must be taken to be fulfilled where the form, plan, notice or other document transmitted by means of the electronic communication is—

- (a) capable of being accessed by the recipient,
- (b) legible in all material respects, and
- (c) sufficiently permanent to be used for subsequent reference.

(5) In paragraph (4), “legible in all material respects” (*“yn ddarllenadwy ym mhob manylyn o bwys”*) means that the information contained in the form, plan, notice or other document is available to the recipient to no lesser extent than it would be if sent or given by means of a document in printed form.

(6) Where the electronic communication is received outside the recipient’s business hours, it must be taken to have been received on the next working day; and for this purpose and the purposes of paragraph (2) of regulation 8, “working day” (*“diwrnod gwaith”*) means a day which is not a Saturday, Sunday, Bank Holiday or other public holiday.

(7) A requirement in these Regulations that any document should be in writing is fulfilled where that document meets the criteria in paragraph (4), and “written” (*“yn ysgrifenedig”*) and cognate expressions are to be construed accordingly.

### **Applications for listed building consent or for conservation area consent**

**3.—**(1) Subject to paragraph (7), an application for listed building consent or conservation area consent must—

- (a) be made in writing to a local planning authority on a form published by the Welsh Ministers (or a form to substantially the same effect);
- (b) include the particulars specified or referred to in the form; and
- (c) be accompanied, whether electronically or otherwise, by—
  - (i) such plans, drawings and information as are necessary to describe the works which are the subject of the application;
  - (ii) except where the application is made by electronic communication or the local planning authority indicate that fewer are required, 3 copies of the form; and
  - (iii) except where they are submitted by electronic communication or the local planning authority indicate that fewer are required, 3 copies of any plans, drawings or information accompanying the application referred to in paragraph (i).

(2) Any plans or drawings required to be provided by paragraph (1)(c)(i) must be drawn to an identified scale and, in the case of plans, must show the direction of north.

(3) When the local planning authority with whom the application has to be lodged receive—

- (a) an application which complies with the requirements of paragraph (1);

- (b) the certificate required by regulation 7;
- (c) in a case to which regulation 6 applies, the design and access statement;

the authority must, as soon as is reasonably practicable, send to the applicant an acknowledgement in the terms (or substantially in the terms) set out in Part 1 of Schedule 1.

(4) Where, after sending an acknowledgement as required by paragraph (3), the local planning authority form the opinion that the application is invalid they must, as soon as is reasonably practicable, notify the applicant that the application is invalid.

(5) Where a valid application under paragraph (1) has been received by a local planning authority, the time within which the authority must give notice to the applicant of their decision or of the reference of the application to the Welsh Ministers is a period of 8 weeks beginning with the date the application and the certificate under regulation 7 are lodged with the authority or (except where the applicant has already given notice of appeal to the Welsh Ministers) such other period as may at any time be agreed upon in writing between the applicant and the authority.

(6) Every such notice of decision or reference to the Welsh Ministers must be in writing and where the local planning authority decide to grant listed building consent or conservation area consent subject to conditions or to refuse it, the notice must state the reasons for the decision and must be accompanied by a notification in the terms (or substantially in the terms) set out in Part 2 of Schedule 1.

(7) An application for listed building consent or conservation area consent or an application to vary or discharge conditions attached to a listed building consent or conservation area consent made on or after 30 April 2012 and before 31 May 2012, otherwise than by a local planning authority, may be made in writing on a form devised by the local planning authority and must be accompanied by two further copies of the form, plans and drawings.

#### **Applications to vary or discharge conditions attached to listed building consent or conservation area consent**

4.—(1) An application to a local planning authority for the variation or discharge of conditions attached to a listed building consent or conservation area consent granted in respect of that building must be made in accordance with regulation 3(1).

(2) Paragraphs (3) to (6) of regulation 3 have effect in relation to an application under this regulation as they have effect in relation to an application under regulation 3(1), except that for the reference in regulation 3(6) to a notification in the terms set out in Part 2 of Schedule 1, there is substituted reference to a notification in the terms set out in Part 3 of that Schedule.

#### **Application for listed building or conservation area consent in respect of Crown land**

5. The following provisions of these Regulations, in their application to the making and determination of applications for listed building consent and conservation area consent in respect of Crown land, have effect subject to the following modifications—

- (a) in regulation 3(3)(b), for “the certificate required by regulation 7” substitute “the certificate or other document required by regulation 7”;
- (b) in regulation 7—
  - (i) in paragraph (1) after “accompanied by” insert “the documents described in paragraph (1A) or”, and
  - (ii) after paragraph (1) insert—

“(1A) An application for listed building or conservation area consent in respect of Crown land must be accompanied by—

    - (a) a statement that the application is made in respect of Crown land; and

- (b) where the application is made by a person authorised in writing by the appropriate authority, a copy of that authorisation.”

### **Design and access statements**

6.—(1) Any application to a local planning authority for listed building consent must be accompanied by a statement (“a design and access statement”) explaining—

- (a) the design principles and concepts that have been applied to the works; and
  - (b) subject to paragraph (4), how issues relating to access to the building have been dealt with.
- (2) A design and access statement must, in relation to design—
- (a) explain the design principles and concepts that have been applied to the following aspects of the works—
    - (i) appearance;
    - (ii) environmental sustainability;
    - (iii) layout; and
    - (iv) scale; and
  - (b) explain how the principles and concepts referred to in sub-paragraph (a) take account of—
    - (i) the special architectural or historic importance of the building;
    - (ii) the particular physical features of the building that justify its designation as a listed building; and
    - (iii) the building’s setting.
- (3) Subject to paragraph (4), a design and access statement must, in relation to access, explain—
- (a) the policy or approach adopted as to access, including—
    - (i) what alternative means of access have been considered; and
    - (ii) how policies relating to access in the development plan<sup>(5)</sup> have been taken into account;
  - (b) how the policy or approach adopted as to access takes account of—
    - (i) the special architectural or historic importance of the building;
    - (ii) the particular physical features of the building that justify its designation as a listed building; and
    - (iii) the building’s setting;
  - (c) how any specific issues which might affect access to the building have been addressed; and
  - (d) how features which ensure access to the building will be maintained.

(4) Paragraphs (1)(b) and (3) do not apply in relation to an application for listed building consent to carry out works affecting only the interior of a building.

(5) In this regulation—

“appearance” (“*ymddangosiad*”), in relation to the works and the building to which the works relate, means the aspects of the works and the building which determine the visual impression they make, including the external built form of the works and the building, their architecture, features, materials, decoration, lighting, colour and texture;

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(5) See sections 38 and 62 of the 2004 Act; the transitional provisions in article 3 of the Planning and Compulsory Purchase Act 2004 (Commencement No.6, Transitional Provisions and Savings) Order 2005 (S.I. 2005/2847) and the transitional provisions of Part III of Schedule 5 to, the Local Government (Wales) Act 1994 (c. 19).

“layout” (“*cynllun*”) means the way in which the works are situated and orientated in relation to the building to which the works relate and to other buildings, routes and spaces; and

“scale” (“*graddfa*”) means the extent and dimensions of the works in relation to the building and its surroundings.

### **Certificate to accompany applications and appeals**

7.—(1) A local planning authority must not entertain any application under regulation 3 or 4 unless it is accompanied by one of the following certificates signed by or on behalf of the applicant—

- (a) a certificate stating that, at the beginning of the period of 21 days ending with the date of the application, no person (other than the applicant) was the owner of the building or any part of it;
- (b) a certificate stating that the applicant has given the requisite notice of the application to all persons (other than the applicant) who at the beginning of that period were owners of the building or any part of it, and setting out the names of those persons, the addresses at which notice of the application was given to them respectively, and the date of service of each such notice;
- (c) a certificate stating that the applicant is unable to issue a certificate in accordance with either sub-paragraphs (a) or (b), that the applicant has given the requisite notice of the application to such one or more of the persons mentioned in sub-paragraph (b) as are specified in the certificate (setting out their names, the addresses at which notice of the application was given to them respectively, and the date of service of each such notice), that the applicant has taken such steps as are reasonably open to them (specifying the steps taken) to ascertain the names and addresses of the remainder of those persons and that the applicant has been unable to do so;
- (d) a certificate stating that the applicant is unable to issue a certificate in accordance with sub-paragraph (a), that the applicant has taken such steps as are reasonably open to them (specifying the steps taken) to ascertain the names and addresses of the persons mentioned in sub-paragraph (b) but has been unable to do so.

(2) Any such certificate as is mentioned in paragraph (1)(c) or paragraph (1)(d) must also contain a statement that the requisite notice of the application, as set out in the certificate, has been on a date specified in the certificate (which must not be earlier than the beginning of the period mentioned in paragraph (1)(a)) published in a local newspaper circulating in the locality in which the building is situated.

(3) Where an application under regulation 3 or 4 is accompanied by such a certificate as is mentioned in paragraph (1)(b), paragraph (1)(c), or paragraph (1)(d), the local planning authority—

- (a) must not determine the application before the end of the period of 21 days beginning with the date appearing from the certificate to be the latest of the dates of service of notices as mentioned in the certificate, or, if later, the date of publication of a notice as so mentioned;
- (b) must in determining the application take into account any representations relating to it which are made to them before the end of that period by any person who satisfies them that the person is an owner of the building or any part of it; and
- (c) must give notice of their decision to every person who has made representations which they were required to take into account in accordance with sub-paragraph (b).

(4) For the purposes of this regulation, “owner” (“*perchennog*”) means a person who is for the time being the estate owner in respect of the fee simple or is entitled to a tenancy granted or extended for a term of years certain of which not less than seven years remain unexpired.

(5) The provisions of this regulation will apply, with any necessary modifications, where an application under regulation 3 or 4 is referred (or is deemed to have been referred) to the Welsh

Ministers under section 12(6) of the Act or, in relation to an appeal to the Welsh Ministers under sections 20 or 21 of the Act, as they apply in relation to an application which falls to be determined by the local planning authority.

(6) The provisions of this regulation will apply where an application for listed building consent is made to the Welsh Ministers under section 82B(2)(7) of the Act, as they apply in relation to an application which falls to be determined by the local planning authority with the following modifications—

- (a) in paragraph (1) for “A local planning authority must not entertain any application under regulation 3 or 4” substitute “The Welsh Ministers must not entertain any application under section 82B(2) of the Act”;
- (b) omit paragraph (3).

(7) A certificate issued for the purposes of this regulation must be in the form published by the Welsh Ministers, or in a form substantially to the like effect.

(8) The requisite notices for the purposes of this regulation in relation to applications must be in the forms set out in Part 1 of Schedule 2.

(9) The requisite notices for the purposes of this regulation in relation to appeals must be in the forms set out in Part 2 of Schedule 2.

#### **Use of electronic communications**

**8.—**(1) Paragraph (2) of this regulation applies where an electronic communication is used for the purpose of making an application—

- (a) under regulation 3; or
- (b) under regulation 4.

(2) The reference in paragraph (5) of regulation 3 to the date when the form and certificate are lodged with the local planning authority must be construed as a reference to the date when the form and certificate are transmitted to the authority by means of the electronic communication; but where the communication is received outside the authority’s business hours, it must be taken to have been received on the authority’s next working day.

(3) Where a local planning authority maintain a website for the purpose of advertising applications, regulation 10 applies with the modifications in paragraph (4).

(4) In regulation 10—

- (a) for sub-paragraph (a) of paragraph (1), substitute—
  - “(a) publish in a local newspaper circulating in the locality in which the building is situated a notice indicating the nature of the works which are the subject of the application and—
    - (i) naming a place within the locality where a copy of the application and of all plans and other documents submitted with it are open to inspection by the public at all reasonable hours during the period of 21 days beginning with the date of publication of the notice; and
    - (ii) stating the address of a website where a copy of the application and of all plans and other documents submitted with it are open to inspection by the public during the period of 21 days beginning with the date of publication of the notice, and the place on the website where such documents may be accessed, and how they may be accessed; and”;

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(6) Section 12 was amended by section 17 of the Transport and Works Act 1992 (c. 42).

(7) Section 82B was inserted by section 83 of the Planning and Compulsory Purchase Act 2004 (c. 5).

- (b) in paragraph (2), omit “both of” in both places in which it occurs, and in sub-paragraph (a) after “sub-paragraph (a)” insert “(i) or (ii)”.
- (5) Paragraph (6) of this regulation applies where a person uses electronic communications for any of the following purposes—
- (a) making an application under regulation 3;
  - (b) making an application under section 82B(2) of the Act for consent;
  - (c) making an application under regulation 4;
  - (d) giving notice of appeal to the Welsh Ministers under regulation 12;
  - (e) making a claim under regulation 13 for compensation, or serving a listed building purchase notice under that regulation.
- (6) In a case to which this paragraph applies, and except where a contrary intention appears, the person making the application or claim or giving or serving the notice is taken to have agreed—
- (a) to the use of electronic communications for all purposes relating to the application, appeal, claim or notice (as the case may be) which are capable of being effected using such communications;
  - (b) that the address for the purpose of such communications is the address incorporated into or otherwise logically associated with the application, appeal, claim or notice;
  - (c) that deemed agreement under this paragraph subsists until the applicant gives notice in writing that the applicant wishes to revoke the agreement (and such revocation takes effect on a date specified by the applicant being not less than seven days after the date on which the notice is given).

#### **Applications by local planning authorities**

9.—(1) In relation to applications by local planning authorities relating to the execution of works for the demolition, alteration or extension of listed buildings or for the demolition of unlisted buildings in conservation areas, the provisions of the Act specified in section 82(3) of the Act have effect subject to the exceptions and modifications prescribed in this regulation.

(2) Where a local planning authority require listed building consent for the demolition, alteration or extension of a listed building in their area or conservation area consent for the demolition of a building within a conservation area in their area, the authority must make an application to the Welsh Ministers for that consent.

(3) Any such application must be in the form of an application to the local planning authority and is deemed to have been referred to the Welsh Ministers under section 12 of the Act. The provisions of that section apply to the determination of the application by the Welsh Ministers.

(4) Where a local planning authority are making an application for consent under paragraph (2) they must, before sending it to the Welsh Ministers—

- (a) publish in a local newspaper circulating in the locality in which the building is situated a notice indicating the nature of the works which are the subject of the application and naming a place within the locality where a copy of the application and of all the plans and other documents which it is intended to submit to the Welsh Ministers with it are open to inspection by the public at all reasonable hours during the period of 21 days beginning with the date of publication of the notice; and
- (b) for not less than 7 days display on or near the building a notice containing the same particulars as are required to be contained in the notice to be published in accordance with sub-paragraph (a).

(5) Paragraph (4) does not apply to any application by a local planning authority relating to works affecting only the interior of a building which when last notified to the authority by the

Welsh Ministers as a building of special architectural or historic interest was classified as a Grade II (unstarred) listed building.

(6) An application by a local planning authority to the Welsh Ministers under paragraph (2) above must be accompanied by a copy of all representations duly made in relation to the application.

(7) In relation to a listed building or a building in a conservation area belonging to a local planning authority, the Welsh Ministers may serve any notice authorised to be served by a local planning authority in relation to a listed building or a building in a conservation area.

### **Advertisement of applications**

**10.**—(1) Subject to paragraph (3), where an application under regulation 3 or 4 is made to a local planning authority in respect of any building the authority must—

- (a) publish in a local newspaper circulating in the locality in which the building is situated a notice indicating the nature of the works which are the subject of the application and naming a place within the locality where a copy of the application and of all plans and other documents submitted with it are open to inspection by the public at all reasonable hours during the period of 21 days beginning with the date of publication of the notice; and
- (b) for not less than 7 days display on or near the said building a notice containing the same particulars as are required to be contained in the notice to be published in accordance with sub-paragraph (a).

(2) Subject to paragraph (3), an application under regulation 3 or 4 must not be determined by the local planning authority before both of the following periods have elapsed, namely—

- (a) the period of 21 days referred to in sub-paragraph (a) of paragraph (1); and
- (b) the period of 21 days beginning with the date on which the notice required by sub-paragraph (b) of paragraph (1) was first displayed,

and in determining the application the authority must take into account any representations relating to the application which are received by them before both of those periods have elapsed.

(3) Paragraphs (1) and (2) do not apply to any application for—

- (a) listed building consent to carry out works affecting only the interior of a building which when last notified to the local planning authority by the Welsh Ministers as a building of special architectural or historic interest was classified as a Grade II (unstarred) listed building; or
- (b) the variation or discharge of conditions attached to a listed building consent in respect of the interior of such a Grade II (unstarred) listed building.

### **Advertisement of applications for urgent works relating to Crown development**

**11.**—(1) Subject to paragraph (2), where an application under section 82B(2) of the Act is made to the Welsh Ministers in respect of any building the Welsh Ministers must—

- (a) publish in a local newspaper circulating in the locality in which the building is situated a notice—
  - (i) indicating the nature of the works which are the subject of the application; and
  - (ii) naming a place within the locality where a copy of the application and of all plans and other documents submitted with it are open to inspection by the public at all reasonable hours during the period of 21 days beginning with the date of publication of the notice; and
  - (iii) stating the address of the website where a copy of the application and of all plans and other documents submitted with it are open to inspection by the public during

that period, together with the place on the website where such documents may be accessed, and how they may be accessed; and

- (b) for not less than 7 days display on or near the said building a notice containing the same particulars as are required to be contained in the notice to be published in accordance with sub-paragraph (a).

(2) Paragraph (1) does not apply to any application for listed building consent to carry out works affecting only the interior of a Grade II (unstarred) listed building which, when last notified to the authority by the Welsh Ministers as a building of special architectural or historic interest, was classified as a Grade II (un-starred) listed building.

## Appeals

**12.**—(1) An applicant who wishes to appeal—

- (a) against a decision of a local planning authority—
  - (i) refusing listed building consent or conservation area consent or granting either such consent subject to conditions; or
  - (ii) refusing to vary or discharge the conditions attached to a listed building consent or a conservation area consent, or in respect of the addition of new conditions consequential upon any such variation or discharge; or
- (b) following the failure of a local planning authority to give notice of their decision or of the reference of the application to the Welsh Ministers;

must give notice of appeal to the Welsh Ministers (on a form obtained from the Welsh Ministers) within six months of notice of the decision or of the expiry of the appropriate period allowed under regulation 3(5), as the case may be, or such longer period as the Welsh Ministers may at any time allow.

(2) Such a person must also furnish the Welsh Ministers with a copy of each of the following documents—

- (i) the application;
- (ii) all relevant plans, drawings, particulars and documents submitted with the application, including a copy of the certificate given in accordance with regulation 7;
- (iii) the notice of the decision, if any;
- (iv) all other relevant correspondence with the local planning authority.

## Claims for compensation and listed building purchase notices

**13.**—(1) A claim for compensation made to a local planning authority under sections 28 or 29 of the Act, or a listed building purchase notice served on the council of a county or county borough or a national park authority under section 32(8) of the Act, must be in writing and must be served on that authority or council or national park authority by delivering it at the offices of the authority or council or national park authority addressed to the clerk or by sending it so addressed by prepaid post.

(2) The time within which any such claim or notice as is mentioned in paragraph (1) must be served is—

- (a) in the case of a claim for compensation, 6 months; and
- (b) in the case of a listed building purchase notice, 12 months,

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(8) Section 32(1) was amended by section 20(4) and Schedule 6, paragraph 25 of the Local Government (Wales) Act 1994 (c. 19). Section 32(4A) was inserted by section 78 and Schedule 10, paragraph 33(2) of the Environment Act 1995 (c. 25). There are other amendments to this section which are not relevant.

from the date of the decision in respect of which the claim or notice is made or given, or such longer period as the Welsh Ministers may allow in any particular case.

#### **Advertisement of unopposed revocation or modification order**

**14.** Where by virtue of the provisions of section 25(2) of the Act the making of an order under section 23(9) of the Act in respect of works to a building is required to be advertised, the local planning authority must publish the advertisement in a local newspaper circulating in the locality in which the building is situated.

#### **Application of the Public Health Act 1936 to listed building enforcement notices**

**15.—**(1) The provisions of sections 276, 289 and 294 of the Public Health Act 1936(10) apply in relation to steps required to be taken by a listed building enforcement notice, as if—

- (a) references to a local authority are references to the local planning authority who issued the enforcement notice;
- (b) references (in whatever form) to the execution of works under the Public Health Act 1936 are references to the taking of steps required to be taken under the notice;
- (c) references in section 289 to the occupier are references to a person other than the owner with an interest in the premises; and
- (d) the reference in section 294 to “expenses under this Act” is a reference to expenses incurred in the taking of such steps.

(2) The expenses recoverable by a local planning authority under section 42(1)(11) of the Act are, until recovered, a charge that is binding on successive owners of the land to which the listed building enforcement notice related and the charge must take effect as from the date of the completion by the local planning authority of the steps required to be taken by the listed building enforcement notice.

#### **Demolition of unlisted buildings in conservation areas**

**16.** In their application to buildings in conservation areas, the provisions of the Act referred to in section 74(3) and set out in column (1) of Schedule 3 will have effect as they have effect in relation to listed buildings subject to—

- (a) the substitution of “conservation area enforcement notice” for any reference to “listed building enforcement notice”, and the substitution of “conservation area purchase notice” for any reference to “listed building purchase notice”; and
- (b) the exceptions and additional modifications (if any) set out opposite such provisions in column (2) of that Schedule.

#### **Form of notice that a building has become, or ceased to be, listed**

**17.** The forms set out in Schedule 4 (or forms substantially to the like effect) are the prescribed forms of notice for the purposes of section 2(3) of the Act.

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(9) Section 23 was amended by section 118(1) and Schedule 6, paragraphs 19 and 21 of the Planning and Compulsory Purchase Act 2004 (c. 5).

(10) 1936 c. 49.

(11) Section 42(1) was amended by section 25 and Schedule 3, paragraph 21(a) of the Planning and Compensation Act 1991(c. 34).

### **Revocations, Savings and Consequential Amendments**

**18.**—(1) Subject to paragraph (3) the statutory instruments specified in the first column of the table in Schedule 5 are revoked, in so far as they apply to Wales, to the extent specified in the corresponding row of the third column of the table.

(2) The Planning (Listed Buildings and Conservation Areas) Regulations 1995 (“the Principal Regulations”), as they apply to Wales, are saved in relation to any application, appeal, compensation claim, purchase notice or other proceedings lodged or begun before the 30 April 2012 and accordingly consideration or determination of such must be made by reference to the Principal Regulations.

(3) Where, in consequence of an order of any court (whenever made) the Welsh Ministers re-determine, after the coming into force of these Regulations, an application, appeal or compensation claim made under any provision of the Principal Regulations, the re-determination must be made by reference to these Regulations.

10 March 2012

*John Griffiths*  
Minister for Environment and Sustainable  
Development, one of the Welsh Ministers

## SCHEDULE 1

Regulations 3, 4

### Part 1

#### NOTIFICATION TO BE SENT TO APPLICANT ON RECEIPT OF APPLICATION

Your application dated was received on (1). \*[Examination of the form of application and accompanying plans and documents to ascertain whether your application complies with the statutory requirement has not been completed.

If on further examination it is found that the application is invalid for failure to comply with such requirements (or for any other reason) a further communication will be sent to you as soon as possible.]

If by (2) \*[you have not received notification that your application is invalid and] this authority have not given you notice of their decision (and you have not agreed with them in writing that the period within which their decision shall be given may be extended) you may appeal to the Welsh Ministers in accordance with sections 20 and 21 of the Planning (Listed Buildings and Conservation Areas) Act 1990 by notice sent within six months from that date (unless the application has already been referred by this authority to the Welsh Ministers). Appeals must be made on a form which is obtainable from the Welsh Ministers.

#### Notes

\* Delete where inappropriate

- (1) Insert date when relevant document(s) referred to in regulation 3(1), or 4(1) were received.
- (2) Insert date 8 weeks from date of receipt of application (as given at (1)).

### Part 2

#### NOTIFICATION TO BE SENT TO APPLICANT ON REFUSAL OF LISTED BUILDING CONSENT OR CONSERVATION AREA CONSENT, OR GRANT OF CONSENT SUBJECT TO CONDITIONS (TO BE ENDORSED ON NOTICES OF DECISION)

(1) If the applicant is aggrieved by the decision of the local planning authority to refuse listed building consent or conservation area consent for the proposed works, or to grant consent subject to conditions, the applicant may appeal to the Welsh Ministers in accordance with sections 20 and 21 of the Planning (Listed Buildings and Conservation Areas) Act 1990 within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from the Welsh Ministers). The Welsh Ministers have power to allow a longer period for the giving of a notice of appeal but they will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal.

(2) If listed building consent or conservation area consent is refused, or granted subject to conditions, whether by the local planning authority or by the Welsh Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any works which have been or would be permitted, the owner may serve on the council of the county or county borough or the national park authority in which the land is situated a purchase notice requiring that council or national park authority to purchase the interest in the land in accordance with the provisions of section 32 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### Part 3

#### NOTIFICATION TO BE SENT TO APPLICANT ON REFUSAL TO VARY OR DISCHARGE CONDITIONS ATTACHED TO LISTED BUILDING CONSENT OR CONSERVATION AREA CONSENT, OR ON THE ADDITION OF NEW CONDITIONS CONSEQUENTIAL UPON VARIATION OR DISCHARGE

If the applicant is aggrieved by the decision of the local planning authority—

- (a) to refuse to vary or discharge the conditions attached to a listed building consent or a conservation area consent; or
- (b) to add new conditions consequential upon any such variation or discharge,

the applicant may appeal to the Welsh Ministers in accordance with sections 20 and 21 of the Planning (Listed Buildings and Conservation Areas) Act 1990 within six months of receipt of this notice. (Appeals must be made on a form which is obtainable from the Welsh Ministers). The Welsh Ministers have power to allow a longer period for the giving of a notice of appeal but they will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal.

#### SCHEDULE 2

Regulation 7

### Part 1

#### NOTICE FOR SERVICE ON INDIVIDUALS

##### PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990

Proposal for [demolishing] [altering] [extending] [varying or discharging conditions]\* (1).

TAKE NOTICE that application is being made to the [ (2)] [Welsh Ministers]\* by (3) for [listed building consent] [conservation area consent] [variation or discharge of conditions]\* (4).

If you wish to make representations about the application, you should make them in writing, not later than (5) to the [local planning authority] [Welsh Ministers]\* at (6).

Signed ... ..

[on behalf of ... ..]\*

Date ... ..

#### NOTICE FOR PUBLICATION IN LOCAL NEWSPAPERS WHERE NOT ALL THE OWNERS ARE KNOWN, PURSUANT TO REGULATION 7(2) OF THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (WALES) REGULATIONS 2012

##### PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990

Proposal for [demolishing] [altering] [extending] [varying or discharging conditions]\* (1).

Notice is hereby given that application is being made to the [ (2)] [Welsh Ministers]\* by (3) for [listed building consent] [conservation area consent] [variation or discharge of conditions]\* (4).

Any owner of the building (namely a freeholder, or a leaseholder entitled to an unexpired term of at least seven years) who wishes to make representations to the above-mentioned [local planning

authority] [Welsh Ministers]\* about the application should make them in writing not later than  
(5) to the [local planning authority] [Welsh Ministers]\* at (6).

Signed ... ..

[on behalf of ... ..]\*

Date ... ..

Notes

\* Delete where inappropriate

(1) Insert name, address or location of building with sufficient precision to ensure identification of it.

(2) Insert name of local planning authority.

(3) Insert name of applicant.

(4) Insert description of proposed works and name, address or location of building, or in the case of an application to vary or discharge conditions, insert description of the proposed variation or discharge.

(5) Insert date not less than 20 days later than the date on which the notice is served or published.

(6) Insert address of local planning authority or the Welsh Ministers, as appropriate.

## Part 2

### NOTICE FOR SERVICE ON INDIVIDUALS

#### PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990

Proposal for [demolishing] [altering] [extending] [varying or discharging conditions]\* (1).

TAKE NOTICE that an appeal is being made to the Welsh Ministers by (2) [against the decision of (3)] [on the failure of (3) to give notice of a decision]\* on an application to (4).

If you should wish to make representations to the Welsh Ministers about the appeal you should make them not later than (5), to the Welsh Ministers at (6).

Signed ... ..

[on behalf of ... ..]\*

Date ... ..

### NOTICE FOR PUBLICATION IN LOCAL NEWSPAPERS

#### PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990

Proposal for [demolishing] [altering] [extending] [varying or discharging conditions]\* (1).

Notice is hereby given that an appeal is being made to the Welsh Ministers by (2) [against the decision of (3)] [on the failure of (3) to give notice of a decision]\* to (4).

Any owner of the building (namely, a freeholder, or a leaseholder entitled to an unexpired term of at least seven years) who wishes to make representations to the Welsh Ministers about the appeal should make them in writing, not later than (5), to the Welsh Ministers at (6).

Signed ... ..

[on behalf of ... ..]\*

Date ... ..

Notes

\* Delete where inappropriate

(1) Insert name, address or location of building with sufficient precision to ensure identification of it.

(2) Insert name of appellant.

(3) Insert name of local planning authority.

(4) Insert description of proposed works and name, address or location of building, or in the case of an application to vary or discharge conditions, insert description of the proposed variation or discharge.

(5) Insert date not less than 20 days later than the date on which the notice is served or published.

(6) Insert details of address for appeal.

### SCHEDULE 3

Regulation 16

(1) <b>Provisions of the Act relating to listed building control</b>	(2) <b>Exceptions and additional modifications (if any)</b>
Section 7	Omit the words “or for its alteration or extension in any manner which would affect its character as a building of special architectural or historic interest”.
Section 8	<ol style="list-style-type: none"> <li>1. Omit subsection (1).</li> <li>2. In subsection (2), omit paragraphs (b) and (c).</li> <li>3. In subsection (3)(a), omit the words “or for its alteration or extension”.</li> <li>4. Omit subsections (4) to (7).</li> </ol>
Sections 9 to 12	None.
Section 13	Omit.
Section 14	Omit.
Section 15	<ol style="list-style-type: none"> <li>1. Omit subsections (1) to (4).</li> <li>2. In subsection (6) omit “(1) or”.</li> </ol>
Section 16	Omit subsection (2).
Sections 17 to 20	None.
Section 21	Omit subsections (3) and (4).
Section 22	Omit subsection (1)(b).
Sections 23 to 26	None.
Section 28	None.
Sections 32 to 33	None.
Section 34	Omit subsection (2)(c).
Section 35 to 37	None.

(1) <b>Provisions of the Act relating to listed building control</b>	(2) <b>Exceptions and additional modifications (if any)</b>
Section 38	In subsection (1), for the words “the character of the building as one of special architectural or historic interest”, substitute the words “the character or appearance of the conservation area in which the building is situated”.
Section 39	In subsection (1)—  (i) substitute the following paragraph for paragraph (a) “(a) that retention of the building is not necessary in the interests of preserving or enhancing the character or appearance of the conservation area in which it is situated.”  (ii) omit paragraph (i).
Section 40	None.
Section 41	Omit subsection (6)(c).
Sections 42 to 44	None.
Section 45	Omit
Section 46	<ol style="list-style-type: none"> <li>1. Omit subsection (2)(b).</li> <li>2. Omit subsection (5).</li> </ol>
Section 56	For the words “sections 47 and 48 or section 54”, substitute the words “section 54 where a direction has been made in respect of that building under section 76(1)”.
Sections 62 to 65	None.
Section 66(1)	Omit.
Section 82(2) to (4)	<ol style="list-style-type: none"> <li>1. In subsection (2) omit the words “alteration or extension”.</li> <li>2. In subsections (2)-(4) the exceptions and modifications mentioned in regulation 13 and also as mentioned in this column, must have effect in relation to the appropriate provision mentioned in section 82(3).</li> </ol>
Sections 82A to 82B	None.
Section 82C	Omit subsections (6)(g) and (h).
Section 82D	None.
Section 90(2) to (4)	None.

SCHEDULE 4

Regulation 17

NOTICE THAT A BUILDING HAS BECOME LISTED

IMPORTANT—

THIS COMMUNICATION AFFECTS YOUR PROPERTY

PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990

BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

To:

NOTICE IS HEREBY GIVEN that the building known as situated                      in                      has on been included in a list of buildings of special architectural or historic interest compiled by the Welsh Ministers under section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Date

(Town Clerk)

(Clerk of the Council)

(Chief Executive)

Note

Listing of Buildings of Special Architectural or Historic Interest

The above notice is addressed to you as owner or occupier of the building named, which has been included in one of the lists of buildings of special architectural or historic interest under section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 by the Welsh Ministers. The lists are compiled by the Welsh Ministers as a statutory duty after consultation with persons or bodies as appear to them appropriate as having special knowledge of, or interest in, buildings of architectural or historic interest.

This notice does not call for any action on your part unless you propose at any time to demolish the building or to do any works (either to the exterior or the interior) which would affect its character. In that event you will need to seek “listed building consent”, that is to say, the consent of the local planning authority (the Council) to the work you wish to do.

You should however note that it is an offence to carry out any of these works without obtaining listed building consent. A conviction for this offence could result in a fine or even imprisonment. Nevertheless where works which are urgently necessary in the interests of safety or of health or for the preservation of the building are carried out without consent it is a defence to prove that—

- (a) it was not practicable to secure safety or health or the preservation of the building by works of repair or works for affording temporary support or shelter;
- (b) the works carried out were limited to the minimum measures immediately necessary; and
- (c) notice in writing justifying in detail the carrying out of the works was given to the local planning authority as soon as reasonably practicable.

Certain buildings are exempt from the requirement to obtain listed building consent, notably ecclesiastical buildings which are for the time being used for ecclesiastical purposes (but it should also be noted that this exemption does not apply to a building used or available for use as a residence by a minister of religion and that the exemption may be restricted or excluded by an order of the Welsh Ministers under section 60 of the 1990 Act).

Although there is no statutory right of appeal as such against the listing of a building, you are not precluded at any time from writing to the Welsh Ministers claiming that the building should cease to be listed on the ground that it is not in fact of special architectural or historic interest. Any such claim, with the evidence supporting it, will be carefully considered by the Welsh Ministers in consultation with their statutory advisers. A guidance note on the procedure is available from the Welsh Ministers.

In addition, where listed building consent is refused by a local planning authority or is granted subject to conditions, there is a right of appeal to the Welsh Ministers; and one of the grounds for an appeal may be that the building is not of special architectural or historic interest.

If at any time you propose to take any action which may affect the character of your building, you would be well advised to refer to the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990, and of the Planning (Listed Buildings and Conservation Areas) (Wales) Regulations 2012 (S.I.2012/793 (W.108)). Further details can be obtained from your local planning authority.

NOTICE THAT A BUILDING HAS CEASED TO BE LISTED  
IMPORTANT—

THIS COMMUNICATION AFFECTS YOUR PROPERTY  
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990  
BUILDINGS OF SPECIAL ARCHITECTURAL OR HISTORIC INTEREST

To:

NOTICE IS HEREBY GIVEN that the building known as situated in has, by an amendment made by the Welsh Ministers under section 1(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 on , been excluded from the list of buildings of special architectural or historic interest compiled by the Welsh Ministers.

Date:

(Town Clerk)

(Clerk of the Council)

(Chief Executive)

## SCHEDULE 5

Regulation 18

Statutory Instruments Revoked in so far as they apply to Wales

<i>Title of Instrument</i>	<i>Reference</i>	<i>Extent of Revocation</i>
The Town and Country Planning (Listed Buildings in Wales and Buildings in Conservation Areas in Wales) (Welsh Forms) Regulations 1990	1990/1147	The whole of the Regulations
The Planning (Listed Buildings and Conservation Areas) Regulations 1990	1990/1519	The whole of the Regulations
The Town and Country Planning (Enforcement Notices and Appeals) Regulations 1991	1991/2804	Regulation 10(2)
The Planning (Listed Buildings, Conservation Areas and Hazardous Substances) (Amendments relating	2006/1388 (W.138)	Regulation 2

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<i>Title of Instrument</i>	<i>Reference</i>	<i>Extent of Revocation</i>
to Crown Land) (Wales) Regulations 2006		
The Planning (Listed Buildings and Conservation Areas) (Amendment) (Wales) Regulations 2009	2009/1026 (W.88)	The whole of the Regulations

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## EXPLANATORY NOTE

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

These Regulations consolidate with amendments the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (“the principal Regulations”) and subsequent amending instruments, in so far as they apply to Wales. Most provisions of the principal Regulations are carried forward subject, in some cases, to minor drafting changes. The opportunity has been taken to re-order some of the material.

Regulations 3 and 4 make changes to the form and content of applications for listed building and conservation area consents and applications to vary or discharge conditions attached to listed building or conservation area consents. Applications must be made on a form provided by the Welsh Ministers and include the prescribed information.

The Regulations make procedural provisions for applications for listed building consent, for conservation area consent, for the variation or discharge of conditions attached to listed building or conservation area consents and for appeals in respect of these matters (regulations 3 to 12).

The Regulations also provide for other procedural matters relating to listed building and conservation area consents: procedural provisions for compensation and listed building purchase notices (regulation 13); the manner that unopposed revocation or modification of consent orders must be advertised (regulation 14); for the application and modification of legislation in relation to enforcement notices for listed buildings and unlisted buildings in conservation areas (regulations 15 and 16) and notices of listed buildings (regulation 17).

The Regulations contain transitional provisions for applications for listed building and conservation area consent made within one month of these Regulations coming into force. The Regulations revoke previous statutory instruments which they replace and make consequential amendments to other instruments.

An impact assessment was prepared in relation to these Regulations. It has been placed in the library of the Welsh Government and copies may be obtained from the Planning Directorate, the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.