WELSH STATUTORY INSTRUMENTS

2004 No. 2730 (W.237)

ACQUISITION OF LAND, WALES

The Compulsory Purchase of Land (Written Representations Procedure) (National Assembly for Wales) Regulations 2004

Made - - - -	*19 October 2004*
Coming into force - -	*31 October 2004*

The National Assembly for Wales ("the National Assembly"), in exercise of its powers under sections 7(2), 13A(2) and (6) and 13B(7) of, and paragraph 4A(2), (7) and (8) of Schedule 1 to, the Acquisition of Land Act 1981(**1**), and all other powers enabling it in that behalf, hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Compulsory Purchase of Land (Written Representations Procedure) (National Assembly for Wales) Regulations 2004 and come into force on 31 October 2004.

(2) Subject to paragraph (3), these Regulations apply where the National Assembly is either the—

(a) confirming authority(**2**); or

(b) the appropriate authority(**3**),

and it is considering the use of, or proceedings under, the written representations procedure(**4**).

(3) These Regulations do not apply where, in the case of—

(a) paragraph (2)(a), first publication of the notice of the making of the compulsory purchase order pursuant to section 11(1) of the Acquisition of Land Act 1981; or

(b) paragraph (2)(b), first publication of the notice of preparation in draft of the compulsory purchase order pursuant to paragraph (2) of Schedule 1 to that Act,

(**1**) 1981 c. 67; sections 13A(2) and (6) and 13B(7) of, and paragraph 4A(2), (7) and (8) of Schedule 1 to, the Acquisition of Land Act 1981 were inserted by the Planning and Compulsory Purchase Act 2004 (c. 5). In relation to Wales, the powers contained in those provisions are, for the most part, exercisable by the National Assembly for Wales by virtue of section 121(1) of the Planning and Compulsory Purchase Act 2004. Most of the functions of the Secretary of State relating to the authorisation of the compulsory purchase of land in Wales (including section 7(2) of the Acquisition of Land Act 1981) were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672).

(**2**) For the definition of "confirming authority", *see* section 7(1) of the Acquisition of Land Act 1981.

(**3**) For the definition of "appropriate authority", *see* paragraph 4(8) of Schedule 1 to the Acquisition of Land Act 1981, section 118(3) of the Planning and Compulsory Purchase Act 2004 and S.I. 1999/672.

(**4**) For the definition of "written representations procedure", *see* section 13A(6) of, and paragraph 4A(7) of Schedule 1 to, the Acquisition of Land Act 1981.

takes place before the date on which these Regulations come into force.

Interpretation

2.—(1) In these Regulations—

"remaining objector" ("*y sawl sy'n parhau i wrthwynebu*") means a person who has a remaining objection(**5**);

"representations" ("*sylwadau*") means written representations, statements and supporting documents;

"send" ("*anfon*") means sent by pre-paid first class post addressed to the proper address(**6**) or such alternative address as the recipient may request;

"starting date" ("*dyddiad dechrau*") means the starting date referred to in regulation 4(a);

"statement" ("*datganiad*") includes a photograph, map or plan, but excludes oral statements;

"the submission" ("*y cyflwyniad*") means the submission seeking the confirmation of a compulsory purchase order under Part II of the Acquisition of Land Act 1981 or the making of a compulsory purchase order prepared in draft under Schedule 1 to that Act; and

"working day" ("*diwrnod gwaith*") means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**7**).

(2) References in these Regulations to sections are to sections of the Acquisition of Land Act 1981 and references to Schedule 1 are to Schedule 1 to that Act.

(3) Where the National Assembly is the acquiring authority, the provisions of these Regulations which require any communication between the National Assembly and the acquiring authority apply with such adaptation as may be necessary.

Consent

3.—(1) This regulation prescribes the manner in which a remaining objector may consent to the use of the written representations procedure by the National Assembly.

(2) In order to give consent, the remaining objector must return to the National Assembly, so as to be received no later than the date referred to in paragraph (4), the notice referred to in paragraph (3), on which the objector has indicated consent to the use of the written representations procedure.

(3) The notice must be in the form set out in the Schedule to these Regulations or in a form substantially to the like effect.

(4) The National Assembly must send the notice referred to in paragraph (3) to each remaining objector and such notice must be accompanied by notification of a date, which must be not less than 15 working days after the date on which the notice is sent to the objector.

(5) If consent is not given by each remaining objector in accordance with paragraph (2), the National Assembly will, subject to paragraph (6), proceed on the basis that the written representations procedure will not apply.

(6) If the notice referred to in paragraph (3), in which a remaining objector has indicated consent to the use of the written representations procedure, is received by the National Assembly after the date referred to in paragraph (4), the National Assembly may treat the objector as having consented to

(**5**) For the definition of "remaining objection", *see* section 13A of, and paragraph 4A(1) of Schedule 1 to, the Acquisition of Land Act 1981.
(**6**) For the meaning of "proper address", *see* section 6(3) of the Acquisition of Land Act 1981.
(**7**) 1971 c. 80.

the use of the written representations procedure and, if so, may elect to proceed under that procedure if it is reasonable in all the circumstances to do so.

(7) Where paragraph (6) applies, the National Assembly must consider what steps taken by the acquiring authority and any remaining objector or third party are to be regarded as amounting to substantial compliance with any of the remaining requirements of these Regulations and must notify all such persons accordingly.

Notification of application of written representations procedure

4. Where the National Assembly decides that the written representations procedure is to apply, it must, as soon as is practicable, inform each remaining objector, and the acquiring authority, in writing of the—

(a) date which is to be the starting date for the written representations procedure;

(b) reference number allocated to the submission;

(c) address to which written communications to the National Assembly are to be sent; and

(d) title or description of existing statements which will be considered by the National Assembly as representations in determining the submission.

Representations

5.—(1) Any statement provided by the acquiring authority to each remaining objector at the time at which it serves notice under section 12 or paragraph 3 of Schedule 1 will be taken to form part of the acquiring authority's representations for the purposes of the written representations procedure.

(2) The acquiring authority must provide the National Assembly with any statement of the type mentioned in paragraph (1), but any such statement may be disregarded if received by the National Assembly more than 5 working days after the starting date.

(3) The objection made by or on behalf of a remaining objector to the National Assembly will form part of the remaining objector's representations for the purposes of the written representations procedure and, if it has not already done so, the National Assembly must send a copy of the objection to the acquiring authority so as to be received not more than 5 working days after the starting date.

(4) The acquiring authority may—

(a) make further representations in support of the submission; or

(b) elect to treat any statement under paragraph (1) as its representations in relation to the submission for the purposes of sub-paragraph (a); and, in such a case, the acquiring authority must notify the National Assembly, and each remaining objector, accordingly.

(5) The National Assembly may disregard representations made under paragraph (4) if the representations are received by the National Assembly more than 14 working days after the starting date.

(6) A remaining objector may—

(a) make representations to the National Assembly in addition to those in paragraph (3); or

(b) elect to treat an objection under paragraph (3) as that objector's representations for the purposes of sub-paragraph (a); and, in such a case, must notify the National Assembly, and the acquiring authority, accordingly.

(7) The National Assembly may disregard representations made under paragraph (6) if the representations are received by the National Assembly more than 15 working days after the National Assembly sends a copy of representations under paragraph (4)(a), or a notification under paragraph (4)(b), to the remaining objector.

(8) The acquiring authority may make representations to the National Assembly in relation to a remaining objector's representations made under paragraph (6)(a) or any representations made under regulation 6 below.

(9) The National Assembly may disregard representations made under paragraph (8) if the representations are received by the National Assembly—

(a) more than 10 working days after the National Assembly sends a copy of the representations under paragraph (6)(a) to the acquiring authority; or

(b) if no representations under paragraph (6)(a) are made, more than 10 working days after the National Assembly sends notification under regulation 6(3) of these Regulations.

(10) The National Assembly may request the acquiring authority, and each remaining objector, to provide it with additional copies of representations within such reasonable time scale as it may specify.

(11) To enable the process to be completed expeditiously, the National Assembly must, as soon as practicable, send to—

(a) each remaining objector, a copy of any representations made by the acquiring authority;

(b) the acquiring authority, a copy of any representations made by a remaining objector; and

(c) each remaining objector and the acquiring authority, notification that no other representations have been made within a period permitted under this regulation.

Third party representations

6.—(1) The National Assembly may permit representations to be made by any person who is not the acquiring authority or a remaining objector.

(2) The National Assembly may disregard representations made pursuant to paragraph (1) where it receives such representations more than 14 working days after the starting date.

(3) The National Assembly must, as soon as practicable, send to each remaining objector and the acquiring authority—

(a) a copy of any representations made under paragraph (1); or

(b) notification that no representations under paragraph (1) have been made within the period permitted.

(4) The acquiring authority may make representations to the National Assembly in relation to any representations made under paragraph (1).

(5) The National Assembly may disregard representations made under paragraph (4) if it receives them more than 10 working days after it sent a copy of the representations under paragraph (1) to the acquiring authority.

(6) The National Assembly may request any person making representations under paragraph (1), or the acquiring authority, to provide it with additional copies of representations within such reasonable timescale as it may specify.

Allowing further time

7. The National Assembly may, in a particular case, give directions setting later limits for the receipt of representations than those permitted by regulations 5 and 6.

Appointment of an inspector

8. The National Assembly may appoint an inspector to—

(a) consider the statements made under regulation 4(d) and the representations provided in accordance with regulations 5 and 6;

(b) undertake a site inspection, if appropriate; and

(c) report, in writing, to the National Assembly with a recommendation in respect of the submission.

Site inspections

9.—(1) The inspector may, at any time, make an—

(a) unaccompanied inspection without giving prior notice to the acquiring authority and the remaining objectors; and

(b) inspection in the company of the acquiring authority and each remaining objector, or their representative,

of land which is the subject of the compulsory purchase order and of the surrounding area.

(2) In the case of an inspection under paragraph (1)(b), the National Assembly must send notification of the date and time of the inspection to the acquiring authority, and the remaining objectors, so as to be received not less than 5 working days before that date.

(3) The inspector is not required to defer an inspection under paragraph (1)(b) where any person mentioned in that paragraph is not present at the time appointed.

(4) If the National Assembly receives a request for an inspection from the acquiring authority or a remaining objector not later than 10 working days after the starting date, the National Assembly must arrange such an inspection.

Decision

10.—(1) The National Assembly may make its decision on the basis of statements made under regulation 4(d), representations provided in accordance with regulations 5 and 6 and any report prepared pursuant to regulation 8(c).

(2) The National Assembly may, not less than 10 working days after sending to the acquiring authority, and to each remaining objector, notice of its intention to do so, make its decision notwithstanding that no representations have been provided within time limits permitted or extended under these Regulations, if it appears to the National Assembly that it has sufficient material to make a decision.

Notification of decision

11.—(1) The National Assembly must send written notice of its decision, and the reasons for that decision, to—

(a) the acquiring authority;

(b) each remaining objector; and

(c) any other person permitted to make representations under regulation 6.

(2) A person entitled to be notified of the decision who wishes to request an opportunity to inspect, or to receive a copy of, any report or representation considered by the National Assembly in reaching its decision must apply to the National Assembly in writing within six weeks of being notified of the decision; and, where such an application is made, the National Assembly must, as soon as reasonably practicable after receiving the request, make arrangements for the inspection to take place or, not later than 10 working days after receipt of the request, send the copy requested to that person.