WELSH STATUTORY INSTRUMENTS

2003 No. 395 (W.54)

TOWN AND COUNTRY PLANNING, WALES

The Town and Country Planning (Enforcement) (Written Representations Procedure) (Wales) Regulations 2003

Made - - - -	*25th February 2003*
Coming into force - -	*1st 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 175, 323 and 333 of the Town and Country Planning Act 1990(**1**) and sections 40, 89(1), 91(1) and 93(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990(**2**), and of 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 Town and Country Planning (Enforcement) (Written Representations Procedure) (Wales) Regulations 2003 and come into force on 1st April 2003.

(2) These Regulations apply to Wales.

Interpretation

2. In these Regulations-

"the appellant" ("*yr apelydd*") means a person giving notice of appeal to the National Assembly;

"document" ("*dogfen*") includes a photograph, map or plan;

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

(**1**) 1990 c. 8; the functions of the Secretary of State under sections 175 and 323 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 now 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)). Section 175 contains amendments not relevant to these Regulations. Section 323 was amended by paragraph 26 of Schedule 3 to the Tribunals and Inquiries Act 1992 (c. 53).

(**2**) 1990 c. 9; the functions of the Secretary of State under these sections were 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). Section 89(1) applies the regulation-making provisions contained in section 323 of the Town and Country Planning Act 1990 to the Planning (Listed Buildings and Conservation Areas) Act 1990 for the purposes of these Regulations.

"the Enforcement Notices and Appeals Regulations" ("*y Rheoliadau Hysbysiadau Gorfodi ac Apelau*") means the Town and Country Planning (Enforcement Notices and Appeals) (Wales) Regulations 2003(**3**);

"the Listed Buildings Act" ("*y Ddeddf Adeiladau Rhestredig*") means the Planning (Listed Buildings and Conservation Areas) Act 1990(**4**);

"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;

"notice of appeal" ("*hysbysiad apêl*") means a notice of appeal under section 174(3) of the Planning Act or section 39(2) of the Listed Buildings Act;

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

"questionnaire" ("*holiadur*") means a document in the form supplied by the National Assembly to local planning authorities for the purpose of proceedings under these Regulations;

reference to section 39 of the Listed Buildings Act includes reference to that section as applied by section 74(3) of that Act (appeal against conservation area enforcement notice);

"starting date" ("*dyddiad dechrau*") means the date of the National Assembly's written notice to the appellant and the local planning authority under regulation 4; and

"written representations" ("*sylwadau ysgrifenedig*") includes supporting documents.

Application of these Regulations

3.—(1) These Regulations apply where, after they come into force, an appellant informs the National Assembly in the notice of appeal of a wish for the appeal to be disposed of on the basis of written representations.

(2) Where an appeal under section 174 of the Planning Act (appeal against enforcement notice) or section 39 of the Listed Building Act (appeal against listed building, or conservation area, enforcement notice) is not being disposed of on the basis of written representations and the appellant and the local planning authority inform the National Assembly that they wish it to be disposed of on that basis, these Regulations apply to the proceedings to such extent as the National Assembly may specify having regard to any steps already taken in relation to those proceedings.

(3) These Regulations cease to apply to proceedings if the National Assembly informs the appellant and the local planning authority that it will give them an opportunity of appearing before and being heard by a person appointed by it for the purpose.

Notification of receipt of appeal

4. The National Assembly must, as soon as practicable, advise the appellant and the local planning authority in writing of-

(a) the starting date;

(b) the reference number allocated to the appeal;

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

(**3**) S.I. 2003/394 (W.53).

(**4**) 1990 c. 9; section 39 was amended by paragraph 3 of Schedule 3 to the Planning and Compensation Act 1991 (c. 34), Schedule 3 was amended by section 25 of, and Schedule 3, Part II, paragraph 28 to, that Act and by S.I. 1997/2971. Section 12 was amended by section 17 of the Transport and Works Act 1992 (c. 42). There are other amendments not relevant to these Regulations.

(d) the ground, or grounds, under section 174(2) of the Planning Act or section 39(1) of the Listed Buildings Act, as the case may be, on which the appeal has been brought.

Notice to interested parties

5.—(1) The local planning authority must, within 2 weeks of the starting date, give written notice of the appeal to any-

(a) person on whom a copy of the enforcement notice has been served;

(b) occupier of property in the locality in which the land to which the enforcement notice relates is situated; and

(c) other persons who in the opinion of the local planning authority are affected by the breach of planning control or contravention of listed building or conservation area control which is alleged in the enforcement notice.

(2) The notice given under paragraph (1) must include-

(a) the name of the appellant and the address of the land to which the appeal relates;

(b) the starting date;

(c) the reference number allocated to the appeal;

(d) a description of the alleged breach of control;

(e) in the case of an appeal against an enforcement notice under section 172 of the Planning Act, a statement setting out the additional matters specified in regulation 3 of the Enforcement Notices and Appeals Regulations;

(f) the ground, or grounds, under section 174(2) of the Planning Act or section 39(1) of the Listed Buildings Act, as the case may be, on which the appeal is made;

(g) a statement that representations may be sent to the National Assembly so as to be received by it within 6 weeks of the starting date and the address to which such representations should be sent;

(h) a statement that any representations made by any person mentioned in paragraph (1) will be sent to the appellant and the local planning authority; and

(i) a statement that any such representations will be considered by the National Assembly when determining the appeal unless any person mentioned in paragraph (1) withdraws them within 6 weeks of the starting date.

Questionnaire

6.—(1) The local planning authority must, so as to be received within 2 weeks of the starting date, send to the National Assembly and copy to the appellant-

(a) a completed questionnaire; and

(b) a copy of each of the documents referred to in it.

(2) The questionnaire must state the date on which it is sent to the National Assembly.

Representations

7.—(1) The notice of appeal, the documents accompanying it and any statement sent under regulation 5 of the Enforcement Notices and Appeals Regulations will comprise the appellant's representations in relation to the appeal.

(2) The local planning authority may elect to treat the questionnaire, the documents sent with it and the statement sent under regulation 8 of the Enforcement Notices and Appeals Regulations, as its representations in relation to the appeal; and, where it does so, it must notify the National Assembly