WELSH STATUTORY INSTRUMENTS

2003 No. 390 (W.52)

TOWN AND COUNTRY PLANNING, WALES

The Town and Country Planning (Referrals and Appeals) (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 power conferred on the Secretary of State by sections 323 and 333 of the Town and Country Planning Act 1990(**1**) and sections 89(1), 91(1) and 93(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990(**2**) and now vested in the National Assembly for Wales(**3**), and of all other powers enabling it in that behalf, makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Town and Country Planning (Referrals and Appeals) (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—

"appeal" ("*apêl*") means, in relation to—

(a) section 77 of the Planning Act or section 12 or 19 of the Listed Buildings Act, the determination of an application which has been referred to the National Assembly, but does not include an application which is deemed to have been referred to the National Assembly by virtue of regulation 13(3) of the Planning (Listed Buildings and Conservation Areas) Regulations 1990(**4**); and

(**1**) 1990 c. 8; section 323 was amended by section 18(1) of, and paragraph 26 of Schedule 3 to, the Tribunals and Inquiries Act 1992 (c. 53).
(**2**) 1990 c. 9; 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.
(**3**) *See* article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and article 4 of, and Schedule 3 to, the National Assembly for Wales (Transfer of Functions) Order 2000 (S.I. 2000/253 (W.5)).
(**4**) S.I. 1990/1519.

(b) section 78 or 208 of the Planning Act or section 20 of the Listed Buildings Act, an appeal made under that section;

"appellant" ("*apelydd*") means, in the case of—

(a) an application referred to the National Assembly under section 77 of the Planning Act or section 12 or 19 of the Listed Buildings Act, the person who made that application to the local planning authority;

(b) an appeal under section 78 of the Planning Act or section 20 of the Listed Buildings Act, the person whose application was refused, granted subject to conditions or not determined, by the local planning authority; and

(c) an appeal under section 208 of the Planning Act, the person on whom a notice has been served under section 207(1) of that Act;

"application" ("cais") means, in relation to—

(a) section 77 of the Planning Act or section 12 or 19 of the Listed Buildings Act, the application which has been referred to the National Assembly;

(b) section 78 of the Planning Act or section 20 of the Listed Buildings Act, the application which is the subject of the appeal; and

(c) section 208 of the Planning Act, the notice served by the local planning authority under section 207(1) of that Act;

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

"electronic communication" has the meaning assigned to that term by section 15(1) of the Electronic Communications Act 2000(**5**);

"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, in relation to—

(a) an application under section 77 of the Planning Act or section 12 or 19 of the Listed Buildings Act, the body which would have dealt with the application had it not been referred to the National Assembly;

(b) an appeal under section 78 of the Planning Act or section 20 of the Listed Buildings Act, the body which was responsible for determining the application occasioning the appeal; and

(c) an appeal under section 208 of the Planning Act, the body which served the notice under section 207(1) of that Act;

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

"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 a local planning authority for the purpose of proceedings under these Regulations;

references to section 12, 19 or 20 of the Listed Buildings Act includes reference to those sections as applied by section 74(3) of that Act;

references to section 78 of the Planning Act includes reference to that section as applied to applications for tree preservation orders made under that Act;

"relevant notice" ("*hysbysiad perthnasol*") means, in relation to an—

(**5**) 2000 c. 7.

(a) application referred to the National Assembly under section 77 of the Planning Act or section 12 or 19 of the Listed Buildings Act, a written request by the appellant that the matter be disposed of by means of written representations; and

(b) appeal brought under section 78 or 208 of the Planning Act or section 20 of the Listed Buildings Act, a written notice served by the appellant,

notifying the National Assembly of their wish that the appeal be disposed of on the basis of written representations;

"starting date" ("*dyddiad dechrau*") means the date of the—

(a) National Assembly's written notice to the appellant and the local planning authority that all the documents required to enable it to entertain the appeal have been received; or

(b) written notice under regulation 4 below,

whichever is later; and

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

Application of the Regulations

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

(2) Where an appeal 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 appeal to such extent as the National Assembly may specify having regard to any steps already taken in relation to the appeal.

(3) These Regulations cease to apply to appeals if the National Assembly informs the appellant and the local planning authority that it will afford to them an opportunity of attending and taking part in a hearing or a local inquiry held by a person appointed by it for the purpose.

Notification of receipt of application

4. The National Assembly must, as soon as practicable after receipt of the relevant notice, advise the appellant and the local planning authority in writing of—

(a) the starting date;

(b) the reference number allocated to the appeal; and

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

Notice to interested persons

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

(a) any person notified or consulted in accordance with the Planning Act, the Listed Buildings Act or a development order, as the case may be, about an appeal; and

(b) any other person who made representations to the local planning authority about an appeal.

(2) A notice under paragraph (1) must—

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

(b) describe the appeal;

(c) set out the matters notified to the appellant and local planning authority under regulation 4;

(d) state that copies of any representations made by any person mentioned in paragraph (1) will be sent to the National Assembly and the appellant;

(e) state 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; and

(f) state that further written representations may be sent to the National Assembly so as to be received within 6 weeks of the starting date.

Questionnaire

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

(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 relevant notice, and the documents accompanying it, will be deemed to comprise the appellant's representations in relation to the appeal.

(2) The local planning authority may elect to treat the questionnaire, and the documents sent with it, as its representations in relation to the appeal and, where it does so, it must notify the National Assembly and the appellant accordingly when it sends to the National Assembly, and copies to the appellant, the questionnaire in accordance with regulation 6.

(3) Where the local planning authority does not elect as described in paragraph (2), it must ensure that 2 copies of those further written representations are received by the National Assembly within 6 weeks of the starting date.

(4) An appellant who wishes to make any further representations to those in paragraph (1) must send 2 copies of those further representations to the National Assembly so as to be received within 6 weeks of the starting date.

(5) Any representations made to the National Assembly under paragraphs (3) and (4) must be dated with the date on which they are sent to the National Assembly.

(6) The National Assembly must, as soon as practicable after receipt, send to the appellant a copy of any representations sent to it by the local planning authority and must send to the local planning authority a copy of any representations sent to it by the appellant.

(7) The appellant and the local planning authority must send to the National Assembly 2 copies of any written comments they have on each other's representations so as to be received within 9 weeks of the starting date and the National Assembly must, as soon as practicable after receipt, send a copy of those further comments to the other party.

(8) The National Assembly may disregard further information from the appellant and the local planning authority which is not received within 9 weeks of the starting date unless that further information has been requested by it.

Third party representations

8.—(1) A person who has been notified under regulation 5(1), and who wishes to send representations to the National Assembly, may do so provided they are received by the National Assembly within 6 weeks of the starting date.

(2) The National Assembly must—